United Nations S/2009/148

Security Council

Distr.: General
18 March 2009

Original: English

Letter dated 16 March 2009 from the Permanent Observer of the League of Arab States to the United Nations addressed to the President of the Security Council

I have the honour to transmit herewith resolution 7069 adopted by the extraordinary session of the Council of the League of Arab States, held at the ministerial level in Cairo on 4 March 2009, regarding the decision of Pre-Trial Chamber I of the International Criminal Court against the President of the Republic of the Sudan, Omer Hassan Ahmad Al-Bashir (see annex).

I should be grateful if, pursuant to Article 54 of the Charter of the United Nations, you would arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Yahya **Mahmassani**
Ambassador

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Annex to the letter dated 16 March 2009 from the Permanent Observer of the League of Arab States to the United Nations addressed to the President of the Security Council

[Original: Arabic]

Decision of the Pre-Trial Chamber of the International Criminal Court regarding His Excellency President Omer Hassan A. Al-Bashir of the Republic of the Sudan

The Council of the League of Arab States, meeting at the ministerial level in extraordinary session on 4 March 2009,

Having heard the presentation made by the head of the delegation of the Republic of the Sudan and the statements of the other heads of delegation on the issue,

Reaffirming its previous resolutions on the matter,

Decides

1. To express its profound concern regarding the issuance by the Pre-Trial Chamber of the International Criminal Court of a warrant of arrest for Mr. Omer Hassan A. Al-Bashir, President of the Republic of the Sudan;

2. To affirm its solidarity with the Republic of the Sudan in confronting any designs against its sovereignty, unity and stability; its belief in the competence and independence of the judiciary of the Sudan, inasmuch as it was entrusted with the original responsibility for achieving justice; and its rejection of any attempt to politicize the principles of international justice and use them to diminish the sovereignty, unity and stability of States;

3. To express its profound regret at the inability of the Security Council to invoke article 16 of the Rome Statute of the International Criminal Court in order to defer the actions that have been taken by the Court;

4. To affirm the immunity enjoyed by Heads of State pursuant to the 1961 Vienna Convention on Diplomatic Relations;

5. To affirm that the issuance of the warrant pre-empts all African and Arab efforts to defuse this crisis, disregards the requirements for justice and the attainment of stability and peace in the Sudan, as well as the considerations involved in resolving the situation in Darfur, in particular the implementation of the peace agreement in southern Sudan and preparations for general elections in the second half of 2009, and poses an enormous challenge to efforts aimed at achieving peace and implementing the peace agreement in the south;

6. To request the Security Council to assume its responsibility for maintaining civil peace and stability in the Sudan, in view of the assiduous efforts being made by the Government of National Unity to achieve peace throughout the country, and to call upon the Permanent Members of the Security Council to reach a unified position in order to safeguard peace and stability in the Sudan and provide an opportunity to make progress towards a political settlement of the crisis in Darfur;

7. To request all parties in the Sudan not to allow efforts aimed at achieving a political settlement of the crisis in Darfur to be undermined, nor to allow the creation of a climate of instability in the country that would threaten the prospects for achieving peace in Darfur or the south, or any efforts detrimental to the security situation on the ground;

8. To call upon regional and international parties to participate by offering appropriate assistance to and creating a suitable climate for the political process that aims to reach a settlement between the Sudanese Government and the armed movements in Darfur, and to avoid taking any action that would impede progress towards comprehensive civil peace in the Sudan;

9. To continue joint efforts between the League of Arab States and the African Union, in cooperation with the Organization of the Islamic Conference and the Non-Aligned Movement, to consider the consequences of the issuance of this warrant with the Security Council, including the dispatch of a joint high-level Arab-African delegation to the Council in order to defer the action taken by the Court;

10. To remain in session in order to follow developments in the situation and prepare for the presentation of the matter to the forthcoming Arab Summit Conference in Doha.

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Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 1244 (1999), by which the Council decided to establish the United Nations Interim Administration Mission in Kosovo (UNMIK) and requested the Secretary-General to report at regular intervals on the implementation of the mandate. It covers the activities of UNMIK and developments related thereto from 1 November 2008 to 9 March 2009.

II. Political situation

2. During the reporting period, the Kosovo authorities continued to act on the basis of the "Constitution of the Republic of Kosovo". The Assembly of Kosovo, in plenary sessions held on 15 and 16 December, passed laws on the Constitutional Court, on the Foreign Service and on the Consular Service of Diplomatic and Consular Missions in Kosovo. These laws make no reference to the powers of my Special Representative under resolution 1244 (1999) or to the Constitutional Framework. Since my last report to the Security Council, of 24 November 2008 (S/2008/692), four additional States have recognized Kosovo, bringing the total to 56.

3. On 17 February 2009, celebrations organized in Pristina and at the municipal level on the occasion of the one-year anniversary of Kosovo's declaration of independence took place without incident. Statements by the Kosovo authorities reflected their perception that, during the past year, they had achieved progress in building a State, in establishing diplomatic relations and in strengthening Kosovo's economy. On the same day in Zveçan/Zvečan municipality in northern Kosovo, over 80 Serbian opposition lawmakers from the 250-seat Serbian Parliament joined delegates from the "Assembly of the Association of Serb Municipalities" in approving a declaration affirming the constitutional status of Kosovo and Metohija within the Republic of Serbia and rejecting all unilateral and separatist activities of the provisional institutions in Pristina on the independence of the province. The Kosovo authorities condemned the gathering in Zveçan/Zvečan and warned that they would deny police escort to Belgrade officials on future visits to Kosovo.

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4. While the Kosovo authorities maintain working contacts with my Special Representative, Lamberto Zannier, UNMIK faces ever-increasing challenges to its ability to fulfil its mandate envisaged in resolution 1244 (1999). There is a perception among many Kosovo Albanians that the Mission's tasks have been accomplished and its continued presence is an unwelcome obstacle to the desire for Kosovo to function as a sovereign State. The Kosovo authorities, who have been under significant pressure from opposition parties, have repeatedly stated during the past months that resolution 1244 (1999) is no longer relevant and that the institutions of Kosovo have no legal obligation to abide by it.

5. In line with the Security Council's presidential statement of 26 November 2008 (S/PRST/2008/44) and my report of 24 November 2008, the Government of Serbia and a majority of Kosovo Serbs have accepted the deployment of the European Union Rule of Law Mission in Kosovo (EULEX) on condition that it would fully respect resolution 1244 (1999) and that it would operate under the overall authority of the United Nations and within its status-neutral framework. Having achieved initial operational capability, EULEX deployed Kosovo-wide without incident on 9 December. Since then, EULEX has continued to build up its presence to the current total of 1,687 international and 806 national employees.

6. To date, Kosovo Serb institutions in northern Kosovo appear reluctant to deal with EULEX on Customs issues. On 5 and 10 February, Kosovo Serbs protested against the collection of data on commercial traffic by EULEX Customs. Whereas direct contacts between EULEX and the Kosovo Serb community exist in the areas of justice and police, the assumption of operational responsibility by EULEX for the Mitrovica courthouse at the end of February triggered peaceful protests by former Kosovo Serb judicial staff. The protesters blocked the entrance to the courthouse for a few days before allowing the first EULEX trial to start. On 5 March, a visit to northern Kosovo by the Kosovo Police Commander, accompanied by the head of EULEX police, was cut short as hundreds of Kosovo Serbs blocked the roads and the entrance to police stations in protest. In Kosovo Serb-majority areas south of the Ibër/Ibar River, 310 out of a total of 330 Kosovo Serb officers continue to refuse to work within the Kosovo Police and remain suspended from service with full pay.

7. Kosovo Serb political leaders, as well as the authorities in Belgrade, continue to oppose the deployment of, and refuse to cooperate with, the International Civilian Office. To date, no formal contacts have been established between the Office and Kosovo Serbs, including the Serbian Orthodox Church, who insist on dealing with or through UNMIK on all matters not related to the mandate of EULEX.

8. In line with Belgrade's official policy, many Kosovo Serbs continue to reject the authority of Kosovo institutions derived from the "Constitution of the Republic of Kosovo", although increasing numbers are applying for Kosovo identity cards, driver's licences and other Kosovo documentation that facilitates their ability to live, work and move about freely in Kosovo. In the north, four municipal structures in Kosovo Serb-majority areas continue to function on the basis of Serbia's law on local self-governance. However, those northern municipalities have not objected to UNMIK's good offices in providing a link to Pristina and to municipal authorities in the southern part of Mitrovicë/Mitrovica. It is expected that municipal elections will be held in Kosovo towards the end of 2009. Attempts by the opposition to have Assembly elections held this year were rejected by the coalition parties with the support of members of the international community.

III. Security

9. The overall security situation in Kosovo remained stable. However, a series of incidents, some inter-ethnic in nature, occurred in the region of Mitrovicë/Mitrovica. Throughout November, attempts by a Kosovo Albanian to reconstruct his conflict-damaged home caused tensions in the neighbourhood of Kroi Vitaku/Brdjani in northern Mitrovicë/Mitrovica. The Kosovo Police, UNMIK Police and UNMIK formed police units intervened promptly on several occasions, preventing violence. During the month of December, 56 private and official vehicles belonging to Kosovo Albanians, Kosovo Serbs, UNMIK, United Nations agencies, the Kosovo Force (KFOR), EULEX, and various non-governmental organizations were vandalized. On 30 December, two Kosovo Albanians stabbed a Kosovo Serb near the main bridge over the Ibër/Ibar River in Mitrovicë/Mitrovica. In retaliation, some 200 Kosovo Serbs burned or damaged a number of Kosovo Albanian-owned shops, and stoned several vehicles with Kosovo registration plates. On 2 January, a hand grenade exploded outside a café in northern Mitrovicë/Mitrovica, causing material damage. In response, 200 Kosovo Serbs set fire to a Kosovo Albanian-owned shop and one Kosovo Albanian-owned home. While attempting to extinguish the fire, six firefighters were injured by a blast. On 6 January, during a quarrel concerning the installation of a water pipeline, a group of Kosovo Serbs threw stones at a group of Kosovo Albanians. The presence of KFOR was crucial in ensuring that the security situation did not deteriorate in the context of these and a number of other smaller incidents. At the initiative of the Kosovo Police Director-General and with the involvement of EULEX, there were occasional meetings between the police commander of northern Mitrovicë/Mitrovica and the commander of the police station in southern Mitrovicë/Mitrovica during January. As a result, they agreed to organize joint police patrols in areas with a mixed population.

10. On 21 January, the Kosovo Security Force was launched as envisaged by the "Constitution of the Republic of Kosovo". The North Atlantic Treaty Organization (NATO), which has undertaken to oversee its establishment and operations, announced that the Security Force would consist of 2,500 active members and 800 reservists. It is to be lightly armed and tasked to perform civil emergency operations. Over 90 per cent of Kosovo Protection Corps staff members applied to join the new security force and approximately 50 per cent were offered and accepted employment with it. Notwithstanding its intended multi-ethnic nature, only a few Kosovo Serbs have expressed interest in serving in the Force; Belgrade officials have publicly discouraged Kosovo Serbs from applying. On 21 January, I received a letter from the President of Serbia, Boris Tadić, protesting against the establishment of the Security Force, which I forwarded to the Security Council.

11. The creation of the Kosovo Security Force rendered the Kosovo Protection Corps non-operational and unviable. This required UNMIK to take appropriate measures, including abolishing the post of the Coordinator of the Corps with effect from 30 January, and renaming and reducing in size the Office of the Coordinator. The new Office will provide administrative support to remaining Corps members and liaison with the Resettlement Programme of the United Nations Development Programme (UNDP), which will support members of the Corps with their retirement or economic reintegration into Kosovo society.

IV. UNMIK reconfiguration and EULEX deployment

12. In line with the presidential statement of 26 November 2008, in which the Council welcomed my report of 24 November 2008, EULEX assumed full operational responsibility in the area of rule of law on 9 December within the framework of resolution 1244 (1999) and under the overall authority of the United Nations. As a result, after almost 10 years of service in Kosovo, UNMIK police successfully completed their operations, including in the Mitrovicë/Mitrovica region. By 9 December, EULEX had deployed 1,045 police officers throughout Kosovo without incident. Over a period of three days, UNMIK police throughout Kosovo reported to their former posts in civilian clothes and introduced the EULEX police monitors/advisers to their Kosovo Police counterparts. On 12 December, an agreement was signed between UNMIK police and EULEX on the transfer of crime investigation files. Out of a total of 1,582 UNMIK police personnel present on the ground on 1 December, all but 49 UNMIK police officers and 6 UNMIK formed police units officers were repatriated or assumed functions with EULEX police during the reporting period.

13. In the justice area, handover of certain responsibilities took place according to signed agreements on the transfer from UNMIK to EULEX of justice-related investigative and case files. Office space formerly occupied by UNMIK Department of Justice personnel is being transferred to EULEX. Upon full implementation of the agreements on the handover of files, EULEX assumed responsibility for all cases, with the exception of one ongoing criminal trial and four proceedings of the Special Chamber of the Supreme Court in Kosovo which are expected to be completed by the end of March. My Special Representative has taken steps to ensure that the appointment of EULEX judges and prosecutors is made under his authority and consistent with the applicable law under resolution 1244 (1999).

14. The courthouse in northern Mitrovicë/Mitrovica now operates on a limited basis with EULEX international judges and prosecutors as well as support staff. UNMIK is no longer present at the court. As with all other criminal cases, the transfer of all cases before the court in Mitrovicë/Mitrovica to EULEX has been completed. Local interlocutors in northern Kosovo have been informed about developments regarding the lead international role of EULEX in justice in Kosovo. In Zubin Potok, however, the municipal and minor offences courts remain non-operational as a result of the resignation of all Kosovo Serb support staff, while the municipal and minor offences courts of Leposaviq/Leposavić continue to function as part of the court system of Serbia. The Court Liaison Offices of the Kosovo Ministry of Justice, which facilitate access to justice for Kosovo Serbs and other communities, continue to operate, albeit with reduced staff and amid administrative and logistical difficulties.

15. On 9 December, EULEX international Customs officers established a limited presence at gates 1 and 31 on the Administrative Boundary Line. By 15 January 2009, EULEX Customs staff reinforcements enabled the Customs presence at the gates to move from an operational presence during daylight hours to full-time presence. On 1 February, EULEX Customs started to collect data on commercial traffic.

16. As a result of these developments, UNMIK has accelerated its reconfiguration in the rule of law sector and in the areas which supported its rule of law function.

The accelerated reconfiguration is being implemented in consultation with the main stakeholders on the ground. As the process of drawdown of UNMIK personnel proceeds, the assumption is that it will be concluded before the start of the 2009/10 budget cycle.

17. The reconfigured Mission will maintain a small field presence, in particular in Mitrovicë/Mitrovica. It will focus on reporting on minority issues, including minority representation, returns and freedom of movement, as well as issues relating to the protection, preservation and reconstruction of cultural heritage in Kosovo. A crucial political and diplomatic role continues to be played by the United Nations Office in Belgrade, which advises my Special Representative and manages contacts with Serbia's senior political leadership. The Mission also maintains an office in Skopje, which advises on, and provides evaluations of, political developments in its area of responsibility. UNMIK will continue working towards the advancement of regional stability and prosperity, based on its continued mandate under resolution 1244 (1999), in close coordination with the Organization for Security and Cooperation in Europe (OSCE) and KFOR and in cooperation with authorities in Pristina and Belgrade. Its main functions, as set out in my special report of 12 June (S/2008/354), will include monitoring and reporting, facilitation of external representation, facilitation of dialogue between Pristina and Belgrade, and activities related to the practical arrangements on the six points referred to in my reports of 12 June and 24 November 2008. As EULEX will perform the full range of rule of law operations, the UNMIK rule of law component is expected to be phased out and replaced by a small police and justice liaison office with residual functions.

V. Community issues

18. The reluctance of the Kosovo Serb community to participate in the implementation of the new framework on local governance adopted by the Kosovo authorities continues to hinder the creation of Kosovo Serb-majority municipalities and progress in decentralization throughout Kosovo. At this stage, the number of Kosovo Serb civil servants on the municipal payrolls remains low in most cases, despite variations by sector. The exceptions are in the three northern municipalities, where all local officials and almost all civil servants are from the Kosovo Serb community.

19. Implementation of the fair share financing system will not continue in 2009 owing to a change in the legal framework on local government finance introduced by the Kosovo authorities. The system, introduced by UNMIK in 2002, required spending a set percentage of a municipal budget on non-majority communities as a way to support their treatment in an equal and fair manner by their respective municipalities. With the discontinuance of the fair share financing mechanism in December 2008, the Kosovo authorities indicated their interest in participating in a new effort to track expenditure made to disadvantaged segments of the Kosovo population. A task force was established, composed of local and international stakeholders, in order to set up a new, transparent system for tracking resource allocations to non-majority communities and populations with special needs.

20. As members of minority communities continue to enjoy a considerable degree of freedom of movement, KFOR has removed the fixed checkpoints in the Kosovo Serb returns sites at Bellopojë/Belo Polje in Pejë/Peć municipality as well as at

Drajkovc/Drajkovce and Jazhincë/Jažince in Shtërpcë/Štrpce municipality. KFOR assessed that the removal of the checkpoints would neither jeopardize the security of the Kosovo Serb community nor undermine the intervention capacity of KFOR. On 1 November 2008, under Kosovo Police escort, approximately 200 Kosovo Serbs visited Orthodox cemeteries in Prizren, Suharekë/SuvaReka and Rahovec/Orahovac, celebrating All Souls' Day. On 24 November, more than 700 Kosovo Serbs and Serbian pilgrims visited Visoki Dečani monastery without escort for the celebration of Sveti Stefan, the founder of the monastery. On 21 February 2009, around 200 Kosovo Serbs travelled to the southern part of Mitrovicë/Mitrovica without escort to honour the day of the dead. This activity was coordinated with the municipal authorities, Kosovo Police, EULEX and KFOR. Following a request by a local Serb community leader, the municipal authorities cleaned the Serb cemetery in the south for the occasion. All the activities related to this day went smoothly and no incidents were reported.

VI. Returns

21. The returns statistics for 2008 show a dramatic decline in the number of voluntary minority returns to Kosovo compared to earlier years. According to estimates by the Office of the United Nations High Commissioner for Refugees (UNHCR), only 582 minority community members returned to Kosovo in 2008, as compared to 1,816 in 2007 and 1,669 in 2006. On 11 November, the Kosovo authorities launched the return and reintegration in Kosovo project, aimed at supporting the return of at least 180 displaced families. It has a budget of €7 million and is funded jointly by the European Commission and UNDP. On 12 December, 14 Kosovo Serb families returned to Berkovë/Berkovo (Klinë/Klina) under a project funded by the British Government. The Ministry of Communities and Returns has approved 109 community development and Stabilization projects for 2009, worth €2 million.

22. The authorities in Serbia, in coordination with UNHCR, have agreed to initiate a thorough survey of internally displaced persons from Kosovo to identify those interested in returning to Kosovo. The information collected will be transferred by UNHCR offices in Belgrade and Pristina for incorporation into the Ministry of Communities and Returns database for further action. In order to provide internally displaced persons with first-hand information on the current situation in their places of origin, as well as on procedures that need to be followed for return, UNHCR continued to organize "go and see visits" and "go and inform visits". In 2008, a total of 65 "go and see visits" and 37 "go and inform visits" were undertaken, with 684 and 531 beneficiaries respectively.

23. In 2008, the overall number of those involuntarily repatriated to Kosovo reached 2,495. On 1 November 2008, the Kosovo Ministry of Internal Affairs took over the processing of readmission requests and other related communications, which had formerly been carried out by UNMIK. Non-implementation by the Kosovo authorities of the reintegration strategy for the forced returnees, in particular of those belonging to vulnerable sections of society, remains a concern.

VII. Property

24. UNMIK Regulation 2006/50 concerning the Kosovo Property Agency expired on 31 December 2008. My Special Representative was asked by Belgrade to consider extending the mandate of the Agency, and he engaged in a series of discussions with all the relevant stakeholders, including the Kosovo authorities. However, the signals coming from Kosovo authorities, as well as from international stakeholders engaged in the Agency process, have so far been negative. At the same time, the Kosovo authorities and an international director appointed by the International Civilian Representative/European Union Special Representative assumed full administrative control of the Agency, which is currently operating in accordance with legislation adopted by the Assembly of Kosovo.

25. As I noted in my report of 24 November, the closure of the Kosovo Property Agency offices in Serbia has impeded the operational process leading to the final adjudication of a number of claims. According to estimates by experts, verification in Serbia-based archives and cadastre offices will be required for around 10 to 15 per cent of the claims filed. In spite of these difficulties, steady momentum has been maintained in the adjudication process. As at 31 January, more than 21,000 claims out of a total caseload of almost 40,000 claims had been adjudicated.

VIII. Cultural and religious heritage

26. UNMIK continued its efforts to support the work of the Council of Europe-led Reconstruction Implementation Commission on the reconstruction of cultural and religious heritage sites. Extensive consultations were conducted with the Council of Europe, the Serbian Orthodox Church and the Kosovo authorities on the new tendering and contract procedures for the reconstruction of the Serbian Orthodox Church sites damaged in March 2004. Following an invitation by the Secretary-General of the Council of Europe, my Special Representative visited Strasbourg, France on 13 November 2008. This visit helped clarify new approaches aimed at increasing the activities of the Reconstruction Implementation Commission and providing direction for the way forward. The requested outlay of nearly €1.2 million for 2008 for the Reconstruction Implementation Commission projects has been approved by the Kosovo Ministry of Finance and will be available for the final phase of the projects in 2009. The responsibilities for the protection of the reconstructed sites were transferred from a private security company that has guarded the sites for over a year to the Kosovo Police.

27. The United Nations Educational, Scientific and Cultural Organization (UNESCO) continued restoration works at six cultural heritage sites in Kosovo, including the two sites registered in the UNESCO World Cultural Heritage List: the Visoki Dečani Monastery and the Patriarchate of Peć Monastery. The works are being conducted under the framework of the Umbrella Memorandum of Understanding and the follow-up memoranda between UNESCO and UNMIK for projects funded by the United States and Italy. From 19 to 22 January 2009, a UNESCO expert team visited Kosovo to select sites for the implementation of a US$ 2 million project funded by the Russian Federation.

IX. Economy

28. UNMIK continued to facilitate arrangements for the engagement of Kosovo in international and regional economic initiatives. The approach of the Kosovo authorities to the Mission's role in external representation has not been consistent. This has led to ad hoc arrangements on a number of occasions. During the reporting period, UNMIK and the Kosovo Ministry of Transport and Telecommunications participated in a number of regional meetings focusing on transport issues. After a break of several months, the Kosovo authorities resumed participation in the Sarajevo-based Regional Cooperation Council, where Kosovo is represented by an UNMIK coordinator along with a Kosovo coordinator. However, the attendance of Kosovo at Energy Community meetings and meetings of the Central European Free Trade Agreement (CEFTA) has been irregular, as Kosovo ministry representatives have attempted without success to attend some meetings without UNMIK. Following an invitation by the Chair-in-Office of CEFTA, UNMIK sent a representative to the first round of bilateral consultations on trade in agricultural products in January 2009 to ensure the engagement of Kosovo in that forum. My Special Representative and several international actors have assured the Kosovo authorities that the role of UNMIK is to enable Kosovo to benefit as much as possible from regional integration.

29. On 1 December, the Kosovo authorities started to operate the "Kosovo Customs", which reports only to authorities in Pristina. The Kosovo Customs Director-General introduced new "Kosovo Customs" stamps, and communicated their introduction to the parties to the Central European Free Trade Agreement. As a result, products carrying a Kosovo "certificate of origin" stamp are currently refused entry into, or transit through, Serbia and are charged with Customs duties by Bosnia and Herzegovina as products originating from a non-CEFTA party. Pristina is attempting to address these problems through CEFTA without involving UNMIK.

X. Human rights

30. The Human Rights Advisory Panel, created by UNMIK Regulation 2006/12 as a mechanism for handling complaints of alleged human rights violations arising from matters under UNMIK responsibility, became operational in November 2007 and issued its first opinion on 12 November 2008. UNMIK liaises with EULEX to ensure prompt and thorough police and judicial investigations in cases before the Advisory Panel, and is reviewing the possibility of dealing with payment of compensation where recommended by the Panel. The workload of the Advisory Panel stood at 108 cases on 31 January 2009. Of these, 20 cases have been finalized, the majority being dismissed owing to their inadmissibility and the failure of complainants to pursue their applications; 88 cases remain active and pending. The largest number of complaints concern housing and property matters.

XI. Dialogue with Belgrade

31. The implementation of the arrangements that resulted from the dialogue with Belgrade and consultations with Pristina, described in my report of 24 November 2008, will depend on further discussions at the technical level. UNMIK has taken

several proactive steps to facilitate technical engagement by all sides in this implementation process. In mid-December, my Special Representative appointed a coordinator and set up an implementation task force comprising the heads of the relevant UNMIK substantive offices and EULEX representatives, whose participation in this process with regard to rule of law issues is now of central importance. In attempting to act on the arrangements set out in my report of 24 November, UNMIK has approached its interlocutors in Belgrade and has offered to meet at expert level. Meetings at the political level between my Special Representative and the President of Serbia, Boris Tadić, the Minister for Foreign Affairs, Vuk Jeremić, and the Minister for Kosovo and Metohija, Goran Bogdanović, were held in February as part of discussions on issues related to my report of 24 November and in preparation for the present report. My Special Representative also continued to consult with the Kosovo authorities on these issues. During all his meetings, my Special Representative emphasized the need to maintain balance in the discussions and to ensure that they are inclusive.

32. With regard to the justice sector, UNMIK and EULEX justice sector representatives have met with representatives of the northern Kosovo Serb judges and prosecutors in Kosovo to discuss steps towards the normalization of the functioning of the Mitrovica court where, following the EULEX deployment, operational responsibility has been assumed by EULEX justice personnel. Discussions have also taken place with Kosovo Albanian judges and prosecutors. UNMIK, with EULEX justice sector experts, also held technical level talks in Belgrade on 9 March. UNMIK remains firmly engaged in justice sector discussions.

33. UNMIK has placed particular emphasis on cultural heritage issues. My Special Representative met with the caretaker of the Patriarch and the current Chairperson of the Holy Synod of the Serbian Orthodox Church, Metropolitan Amfilohije, as well as with the Serbian Minister for Kosovo and Metohija, to discuss the preservation and protection of Serbian religious patrimony and the continuation of the reconstruction process led by the Council of Europe and UNESCO, as well as a framework within which to continue dialogue in this area with Belgrade and Pristina. Discussions have also taken place with representatives of the Council of Europe and UNESCO, and senior officials from the Kosovo Ministry of Culture, Youth and Sports. Early in March, UNMIK and Serbian experts held further technical level talks focusing on an effective framework for the dialogue.

34. The Kosovo authorities have repeatedly expressed their readiness to engage in discussions with Belgrade, as long as the sides are engaged on the basis of equality. For their part, Serbian authorities have also expressed their willingness to engage in dialogue with Pristina, on the condition that it would not prejudice Serbia's position on its territorial integrity and the status of Kosovo. Given the difficulties in reconciling the positions of the sides, the role of UNMIK in facilitating engagement between them on issues of mutual concern is expected to continue. This role needs to be supported and complemented by other international stakeholders active on the ground.

XII. Observations

35. Pursuant to the presidential statement of the Security Council of 26 November 2008, UNMIK has accelerated the process of the Mission's reconfiguration in line

with the provisions of my report of 24 November 2008 and of my special report of 12 June 2008. This process is expected to lead to a significantly restructured Mission, whose functions are being adapted to respond to profoundly changed circumstances on the ground. In parallel, the preparation of a revised budget for 2009/10 has also moved forward, with a view to ensuring that a reconfigured UNMIK adequately reflects remaining and emerging requirements. The Security Council's continuing support, and that of the wider international community, are crucial to ensuring that UNMIK is able to successfully implement its reconfiguration and continue to play a crucial role in maintaining peace and stability on the ground.

36. Together with the ongoing reconfiguration of UNMIK and the related drawdown of UNMIK rule of law personnel, the reporting period was marked by the assumption by EULEX of operational functions in the rule of law sector. This coordinated effort was accomplished without significant security incidents, and with the support of both Pristina and Belgrade and of all international stakeholders. It constitutes a major milestone in the international involvement in Kosovo, and a positive example of cooperation between the United Nations and the European Union.

37. I have noted the commitment of EULEX to fully respect resolution 1244 (1999) and operate under the overall authority and within the status-neutral framework of the United Nations. As EULEX gradually reaches full operational capability, its deployment and role in Kosovo need to continue to take into account the specific circumstances and concerns of all communities. In accordance with my report of 24 November, EULEX has begun to submit reports to the United Nations on its activities on a regular basis. In line with a practice agreed to with the European Union, I attach the first such report (annex I).

38. UNMIK has made efforts to engage with all sides in the discussions and implementation of the temporary arrangements in the six areas included in my report of 24 November. Such efforts need to continue at all levels and with the support of international stakeholders on the ground, as a number of practical issues that are vital to maintaining stability on the ground have yet to be resolved. I call on all involved to participate in good faith and constructively, so that this process may lead to concrete results in the interest of all the communities of Kosovo. I welcome the readiness of EULEX to participate alongside UNMIK in the discussions related to rule of law issues.

39. I would like to express deep appreciation and gratitude to my Special Representative, Lamberto Zannier, for his skilful leadership in managing the evolving role of UNMIK during a challenging period, as well as the political process that culminated in a peaceful drawdown of the Mission. I would also like to commend the staff of UNMIK for their dedicated efforts and commitment to Kosovo and the goals of the United Nations. In particular, I wish to extend my appreciation to the UNMIK justice and police personnel for their service to the Organization, as well as to all police-contributing countries for their contribution to building and consolidating the rule of law in Kosovo over almost a decade.

40. In conclusion, I would like to extend my gratitude to the United Nations long-standing partners in Kosovo — the European Union, NATO and the Organization for Security and Cooperation in Europe — as well as to the United Nations agencies, funds and programmes for their ongoing support and cooperation with UNMIK.

Annex I

Report of the Secretary-General of the Council of the European Union/High Representative for the Common Foreign and Security Policy to the Secretary-General of the United Nations on the activities of the European Union Rule of Law Mission in Kosovo

1. Summary

1. The European Union Rule of Law Mission in Kosovo (EULEX) started to implement its mandate on 9 December 2008 following declaration of initial operational capability. Cooperation with the Kosovo authorities and with rule of law agencies has been positive and productive, as have contacts with international and local partners.

2. The review and handover of files from UNMIK and other necessary preparations for the full assumption of the mandate of the Mission took place throughout the autumn and are still ongoing. The Mission expects to reach full operational capability by the end of winter.

2. EULEX activities November 2008-January 2009

3. Active preparations throughout November allowed EULEX to launch the Mission on 9 December 2008 throughout Kosovo. The deployment of EULEX Kosovo-wide on that date took place without any security incidents. On the whole, EULEX has been welcomed in Kosovo, although there was public opposition to its deployment from some non-majority communities, especially north of the River Ibar. The Head of Mission and other Mission personnel have regularly visited the non-majority areas and informed them about the role and objectives of EULEX, stressing the positive benefits to the Kosovo Serb population of a strengthened rule of law in Kosovo.

4. On 15 June 2008, Mission staffing was 256 international and 62 local staff. By the end of January 2009, 2,364 staff members (1,642 international staff and 722 local staff) were working in EULEX.

5. In order to ensure overall strategic coordination of efforts between the authorities in Kosovo and EULEX, the Joint Rule of Law Coordination Board co-chaired by the local authorities and the EULEX Head of Mission was established and has met on a monthly basis since July. The ministers of Justice, Internal Affairs, and Economy and Finance and their EULEX counterparts are also members of the Joint Rule of Law Coordination Board. A number of technical arrangements were signed on the handover of case files, premises and assets by UNMIK, as well as on cooperation with other United Nations and international actors.

6. Over the summer and autumn 2008, EULEX police and justice components examined case files and prepared their takeover from UNMIK. EULEX also participated in drafting and reviewing a number of laws in the rule of law area prior to their submission to the Assembly of Kosovo, including laws on weapons, public peace and order and private security companies. EULEX has been assisting the

Kosovo authorities with the drafting of a number of strategic policy documents, including those on anti-corruption, organized crime, counter-terrorism, and counter-narcotics, and an action plan against trafficking in human beings.

7. EULEX has maintained regular contacts with relevant international and local interlocutors, for instance, in the field of human rights, including non-government organizations.

Police

8. On 9 December 2008, EULEX police deployed to all local and regional Kosovo Police stations, police headquarters in Pristina and to all boundary points. The EULEX Police Component has started to monitor, mentor and advise its Kosovo counterparts.

9. The Head of the EULEX Police Component conferred regularly with the Kosovo Police General Director.

10. In the north, the Kosovo Police did not report directly to the Kosovo Police command in Pristina but reported provisionally through the EULEX Police Operations Room to the Head of the EULEX Police Component, who also holds the position of Head of the Kosovo Police for the non-transitioned Kosovo Police units, including the units for counter-terrorism, war crimes and lawful interception and their respective cases.

11. Following the appointment of Kosovo Police General Director Sheremet Ahmeti, the positions of the Kosovo Police Deputy General Director and the four assistant directors were advertised, and interviews with the applicants were held in January 2009. The provisional arrangements for the north do not affect the cascade of responsibilities for security incidents, which are as follows: first responder — Kosovo Police with EULEX exercising its mandate to monitor, mentor and advise; second responder — EULEX under its executive mandate; third responder — the Kosovo Force (KFOR).

12. EULEX strongly encouraged the establishment of an ethnically mixed Kosovo Police unit which began patrolling areas in north Mitrovicë/Mitrovica on 23 January 2009. The unit integrates Kosovo Serb, Kosovo Bosniak and Kosovo Albanian officers.

13. Case review and handover of criminal files between UNMIK and EULEX police proceeded smoothly. Ten cases were handed over to the EULEX Financial Investigation Unit. The handover of war crimes case files from UNMIK was completed in December 2008. UNMIK Police International Investigations Unit handed over 36 cases, some of which relate to organized crime. Priority lists for investigations are being drawn up in close cooperation with EULEX prosecutors.

14. A technical arrangement on support in civil disturbance situations was signed by Kosovo Police and EULEX police on 8 December 2008. Formed police units guard Gates 1 and 31 on a 24/7 basis and have provided escorts and support in civil disturbance situations. EULEX special police helped Kosovo Police restore order with KFOR support after unrest broke out on 30 December 2008 in northern Mitrovicë/Mitrovica, demonstrating that EULEX police are able to respond within their existing means to support Kosovo Police in all security events in the north. In

addition, escorts to third parties are provided on a regular basis when the Kosovo Police does not have the capacity to conduct such operations.

15. The EULEX Ministry Monitoring Unit has provided advice to the Ministry of Internal Affairs on the reorganization of the Ministry. Jointly with local counterparts, Unit advisers provided a quality assessment report on municipal civil registration centres. The Unit and the Ministry's Legal Department discussed ways to improve the drafting of laws and subsidiary legislation. The EULEX Witness Security Unit took over from the UNMIK Witness Protection Unit.

Justice

16. EULEX judges and prosecutors have been monitoring, mentoring and advising counterparts throughout Kosovo since July 2008.

17. From 9 December 2008, EULEX judges, prosecutors and correctional officers started to carry out the full range of their tasks. In December, EULEX and UNMIK signed an agreement on the transfer of cases to EULEX judges and prosecutors. So far EULEX judges have taken over 90 cases from UNMIK colleagues, while EULEX prosecutors have received 176 cases. These cases are subject to processing and planning of follow-up action.

18. Since January 2009, EULEX judges have been holding hearings and trials in mixed panels. The transfer of UNMIK case files is continuing, including cases at the pretrial stage, cases where indictment has been received but not confirmed, and cases in which the indictment has been confirmed and the trial is scheduled.

19. In January 2009, EULEX inherited from UNMIK reports received from 1999 onwards of more than 1,187 acts of suspected war crimes which UNMIK believes lack sufficient evidence to be handed over for prosecution and a further 50 that were referred to the UNMIK Criminal Division for indictment.

20. On 16 January 2009 the first hearing was held in the courthouse in north Mitrovicë/Mitrovica. Since 19 January 2009, two courthouse offices vacated by UNMIK became available for the use of EULEX.

21. As regards correctional services, EULEX prison escort officers have been co-located with their Kosovo counterparts since November 2008.

22. In December 2008, the Correctional Unit Escort Group became operational, monitoring, mentoring and advising counterparts on the transport of prisoners, as well as conducting such transport itself, including from north Mitrovicë/Mitrovica.

23. The EULEX Office on Missing Persons and Forensics has attended and conducted autopsies, death scene investigations and exhumations. In some cases identifications were made. The Office cooperates with Kosovo authorities, relevant international organizations and local associations of families of missing persons.

Customs

24. During the transitional phase prior to initial operational capability, the EULEX Customs Component gradually deployed most of its staff for the monitoring units and the mobile teams. EULEX Customs officers received thorough in-service training with the assistance of the Kosovo Customs. Logistical preparations including security assessments were conducted. EULEX Customs mobile teams

became operational in November 2008. On 9 December 2008, international (EULEX) Customs officers were deployed for the first time since March 2008 to Gates 1 and 31 to monitor the situation there and collect data. EULEX Customs started monitoring, mentoring and advising the senior management of the local Customs service and other Customs personnel throughout Kosovo.

25. Customs controls in the north of Kosovo will require a phased approach. In the first phase, EULEX Customs undertook logging of details of incoming commercial vehicles and their loads. On 15 January 2009, EULEX extended its attendance at Gates 1 and 31 to a 24-hour, 7-day presence.

Progress towards full operational capability

26. The Mission expects to reach full operational capability by the end of winter. Mission personnel have begun to monitor and record the results of the monitoring, mentoring and advising activities in its programmatic approach in order to build up a clear picture of the challenges in the rule of law institutions in Kosovo and measure the results of the Mission's work against its objectives. The Kosovo authorities have been briefed on this mechanism and, in the interests of local ownership of progress in the field of rule of law, the results will be shared with them.

Approved by Yves de **Kermabon**
Head of Mission

Annex II

Composition and strength of the police component of the United Nations Interim Administration Mission in Kosovo

(as at 9 March 2009)

Country	*Number*		
Bulgaria	1		
Croatia	1	Ukraine (formed police unit)	6
Germany	4		
Ghana	3		
Greece	1		
India	1		
Italy	6		
Kyrgyzstan	2		
Pakistan	1		
Philippines	4		
Romania	1		
Russian Federation	3		
Slovenia	1		
Turkey	14		
Ukraine	6		
	49		**6**

Annex III

Composition of the Kosovo Police Service

(as at 9 March 2009)

Category	*Percentage*	*Number*
Kosovo Albanians	84.60	5 981
Kosovo Serbs	9.92	701
Other ethnic minority members	5.49	388
Total		**7 070**
Men	86.66	6 127
Women	13.34	943

Annex IV

Composition and strength of the military liaison component of the United Nations Interim Administration Mission in Kosovo

(as at 9 March 2009)

Country	*Number of liaison officers*
Bangladesh	2
Bolivia	1
Bulgaria	1
Chile	1
Czech Republic	1
Denmark	1
Ireland	2
Norway	1
Pakistan	1
Poland	1
Romania	2
Russian Federation	1
Spain	2
Ukraine	4
Total	**21**

Map No. 4133 Rev. 34 UNITED NATIONS
February 2009

Department of Field Support
Cartographic Section

United Nations A/63/772–S/2009/150

General Assembly
Security Council

Distr.: General
18 March 2009

Original: English

General Assembly
Sixty-third session
Agenda items 83 and 109

Maintenance of international security — good-neighbourliness, stability and development in South-Eastern Europe

Implementation of the resolutions of the United Nations

Security Council
Sixty-fourth year

Letter dated 14 March 2009 from the Permanent Representative of the former Yugoslav Republic of Macedonia to the United Nations addressed to the Secretary-General

I am writing to you in connection with the letter of the Permanent Representative of the Hellenic Republic to the United Nations, John Mourikis, addressed to you and circulated, at his request, as document A/63/712-S/2009/82, dated 6 February 2009.

The Republic of Macedonia notes with great concern the tone of the letter and inaccurate statements and allegations it contains. In particular, we wish to make clear that the Macedonian side refutes the allegation that "for the last 15 years" the Greek side "has continuously been faced with a conduct on the part of" the Republic of Macedonia "which contravenes the letter and the spirit of the [1995] Interim Accord", and that its "conduct is not in line with the Security Council resolutions 817 (1993) and 845 (1993) and not consistent with the general principles of international law enshrined in the Charter of the United Nations". My Government notes that these serious allegations appear to be part of a pattern of communications that have been made since 17 November 2008, when the Republic of Macedonia instituted proceedings against the Hellenic Republic in respect of its failure to comply with obligations under article 11(1) of the 1995 Interim Accord. It appears that this most recent communication to you has more to do with a litigation strategy being developed by the Hellenic Republic than the merits of the subject it purports to address.

The Macedonian side would like to take this opportunity to remind you and the Hellenic Republic of its long-standing and sincere commitment to good-neighbourliness and to full respect for the principles reflected in the 1995 Interim Accord. Such commitment has been reflected in a series of actions taken by

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the Republic of Macedonia, as guided by the spirit of the above-mentioned principles, taken in good faith with the aim of building confidence and mutual trust. Such actions include a number of significant concessions. For example, in 1992 amendments to the Constitution of the Republic of Macedonia were adopted, confirming that the Republic of Macedonia has no territorial claims beyond its established borders; these amendments have been consolidated and reaffirmed with the obligations assumed under article 6 of the 1995 Interim Accord. In 1995, pursuant to a new law, the Republic of Macedonia changed its national flag to remove the symbol used before the conclusion of the 1995 Interim Accord.

The Republic of Macedonia continues to participate actively and constructively in the process envisaged in article 5, paragraph 1, of the Interim Accord "with a view to reaching agreement on the difference" between the parties as to the name. The Republic of Macedonia has accepted as a basis for a permanent solution a number of proposals of the Mediator in the process, including the proposals of October 2005 and of March 2008. We regret very much that these important proposals were rejected by the Greek side.

Furthermore, the Hellenic Republic will be aware that the 1995 Interim Accord establishes a process to be followed where one of the parties has concerns about certain acts of the other party. Article 7(3) of the 1995 Interim Accord provides:

> "3. If either Party believes one or more symbols constituting part of its historic or cultural patrimony is being used by the other Party, it shall bring such alleged use to the attention of the other Party, and the other Party shall take appropriate corrective action or indicate why it does not consider it necessary to do so."

With regard to the process envisaged by this provision, the Republic of Macedonia notes that it does not recall any occasion on which the Hellenic Republic has invoked the terms of article 7(3) of the 1995 Interim Accord in any communication with the Republic of Macedonia before the present dispute on article 11(1) of the Interim Accord was taken to the International Court of Justice.

The letter of 6 February 2009 raises three examples of "policies and practices" that give rise to concerns on the part of the Hellenic Republic. The Republic of Macedonia strongly rejects each allegation.

The first complaint concerns the decision of the Macedonian Government to name part of the Pan-European Corridor X in honour of Alexander the Great. This occurred in December 2008, after the dispute on article 11 of the 1995 Interim Accord was submitted to the Court. The naming of the main regional transportation artery between the two countries in honour of such an important historical figure from the region is in no way inconsistent with the requirements of the 1995 Interim Accord. The name of this historic personality connects the countries, as well as the whole region, to a shared heritage. In addition, it is a name that is widely used in many other countries around the world. The Republic of Macedonia fails to see how the common use of the name of a historic personality can be considered to be inappropriate or inconsistent with the requirements of the 1995 Interim Accord.

The second complaint concerns the decision to name the main stadium in Skopje after "Philip II, the Macedon". This decision was taken by the Government of the Republic of Macedonia, and it was published in the Official Gazette of the Republic of Macedonia No. 164/08, dated 29 December 2008, after the dispute on

article 11 of the Interim Accord was submitted to the Court. The same considerations apply as in relation to the previous point, concerning the name of Alexander the Great. The Macedonian side would welcome an explanation as to how this can amount to a violation of article 7 — or any other provision — of the 1995 Interim Accord.

The third complaint concerns "the use of the 'Sun of Vergina' as a symbol of this country in government-financed television spots broadcast in both domestic and international media". In order to be able to respond to this general and unparticularized allegation, the Macedonian side would be grateful if the Hellenic Republic could provide specific information and precise details in order that we might be put in a position to respond, in accordance with the requirements of article 7(3) of the 1995 Interim Accord. Without such precise information it would not be possible to form a view as to whether "appropriate corrective action" is necessary or not.

I would like to remind you that in January 2008 the Macedonian side, inter alia, proposed to the Greek side the establishment of a Joint Education and History Committee that could facilitate and promote understanding on issues of history fully in compliance with the Interim Accord. In spite of the Greek rejection of this proposal, the Republic of Macedonia reiterates the same proposal with the hope that it would now be accepted by the Hellenic Republic.

The Republic of Macedonia also wishes to remind you that, like the Hellenic Republic, it is a State governed by the rule of law and committed to respect fundamental human rights, including the right of freedom of expression as reflected in the European Convention on Human Rights. In this regard, there is a balance to be struck between the requirements of the 1995 Interim Accord, which is fully complied with by the Macedonian side, and the rights of private persons to freely and fully express their own views. The Macedonian side expresses the hope that the Hellenic Republic has not sought to adopt an approach to the 1995 Interim Accord that would undermine the jurisprudence of the European Court of Human Rights on the most important principle of freedom of expression.

I would like to assure you that the Republic of Macedonia will continue to fully uphold the principles and values enshrined in the Charter of the United Nations and that advancement of cooperation and good-neighbourliness will remain among the top priority issues on our foreign policy agenda.

I should be grateful if the present letter were circulated as a document of the General Assembly, under agenda items 83 and 109, and of the Security Council.

(*Signed*) Slobodan **Tasovski**
Ambassador
Permanent Representative

United Nations S/2009/151

Security Council

Distr.: General
19 March 2009

Original: English

Letter dated 18 March 2009 from the Secretary-General addressed to the President of the Security Council

I have the honour to convey the attached report dated 5 March 2009, which I received from my Special Adviser on the Prevention of Genocide, Francis Deng, on his mission to the Great Lakes region with respect to the situation in the Democratic Republic of the Congo. This is pursuant to Security Council resolution 1366 (2001), in which the Council invited the Secretary-General to refer to the Council information and analyses from within the United Nations system on cases of serious violations of international law, including international humanitarian law and human rights law, and to the letter dated 12 July 2004 (S/2004/567) in which the previous Secretary-General informed the President of the Council of his decision to appoint a Special Adviser on the Prevention of Genocide.

I should be grateful if you would bring the present letter and report to the attention of the members of the Security Council.

(*Signed*) **Ban** Ki-moon

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Report of the Special Adviser of the Secretary-General on the Prevention of Genocide on his mission to the Great Lakes region from 22 November to 5 December 2008 with respect to the situation in North Kivu

5 March 2009

Summary

The root causes of the current conflict in the eastern part of the Democratic Republic of the Congo are primarily political and economic and not related to identity. However, extreme ethnic polarization and hatred have become associated with that conflict.

The Special Adviser believes that the risk of ethnic targeting in North Kivu is significantly pronounced above other underlying potential causes of genocide. References to genocide having occurred in the past or allegedly going on at present are powerfully used to predict that genocide may occur again in the future, in particular against the Tutsi, who are popularly viewed as the principal perpetrators of mass atrocities. The likelihood of ethnically motivated killings by armed groups and the escalation of genocidal hysteria among the civilian populations are factors that must be addressed in earnest. The regional dimensions of such a prospect must also be taken into account.

While the information gathered and analysed for the purposes of this report is unlikely to bring radically new insights into the United Nations system's understanding of the situation in the Democratic Republic of the Congo, the Special Adviser hopes it can bring an immediate stimulus for action. The Special Adviser notes that the vocation of his own mandate does not lie so much in identifying new solutions, but in using it as an "alarm" function to help generate momentum for preventive responses by the United Nations system's operational entities. The Special Adviser acts on the premise that the responsibility of preventing genocide and related atrocities lies with the United Nations system as a whole, including the Security Council and the Secretariat.

Since the mission late in 2008, there have been dramatic developments in the Democratic Republic of the Congo, primarily, as at 5 March 2009, the concerted action by the armed forces of the Democratic Republic of the Congo and Rwanda to rein in the Forces démocratiques de liberation du Rwanda and to integrate the Congrès national pour la défense du peuple into the army of the Democratic Republic of the Congo, following the ousting of its leader, Laurent Nkunda. Some of the possible implications of these developments have been presented in this report and may be relevant beyond North Kivu.

The recommendations contained in the report centre on emphasizing the need to enhance protection of the civilian populations; shifting the focus from military action to political engagement and the search for peaceful solutions; building the capacity of the Government of the Democratic Republic of the Congo for effective democratic governance and the rule of law, with justice for all groups; fostering inter-ethnic reconciliation; encouraging regional cooperation; and continuing the cooperation between the African Union and the United Nations in supporting the Democratic Republic of the Congo and the regional initiatives.

I. Introduction

1. The Special Adviser of the Secretary-General on the Prevention of Genocide is mandated to "collect existing information, in particular from within the United Nations system, on massive and serious violations of human rights and international humanitarian law of ethnic and racial origin that, if not prevented or halted, might lead to genocide" (see S/2004/567, annex).

2. It is important that this mandate be understood as specific and focused on the prevention of genocide. Nevertheless, since the precursors of genocide are varied and broader than the legal definition of the crime of genocide, prevention entails also a broader approach. Furthermore, the term "genocide" is often employed in a broader sense, evoking emotive and political responses that need to be taken into account. The Special Adviser seeks to clearly discern the relevance of his mandate to any given situation, by consulting widely with those already engaged and by forging a collaborative and complementary approach, based on the prospect of the mandate adding value to the work of other actors.

3. It is in this context that the Special Adviser has been monitoring the situation in the Democratic Republic of the Congo since early 2008, undertook a mission in the region at the end of 2008 and is presenting the present report, which contains his findings and a number of specific recommendations.

II. The mission

4. In response to reports of allegedly ethnic-based violence in the Democratic Republic of the Congo, the Office of the Special Adviser began to monitor the situation from January 2008 by collecting up-to-date information from within the United Nations system, non-governmental organizations and other sources.

5. While acknowledging that there are several provinces in the Democratic Republic of the Congo that could be of concern to him, the Special Adviser decided to conduct a mission and focus his analysis on the situation in North Kivu in view of the dramatic deterioration of the situation there starting in October 2008. He and his staff held consultations with the Department of Peacekeeping Operations, the Department of Political Affairs, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Office for the Coordination of Humanitarian Affairs at the headquarters level. During the month of November 2008, the Special Adviser met with the Permanent Representatives of Burundi, the Democratic Republic of the Congo, Rwanda and Uganda to discuss the situation and his proposed mission. All of the Special Adviser's interlocutors expressed support for his mission and undertook to facilitate it.

6. The mission was organized with the support of the Special Representative of the Secretary-General and Deputy Special Representative of the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), Alan Doss and Leila Zerrougui respectively, the United Nations Resident Coordinators in Rwanda and Uganda, Aurelien Agbenonci and Theophane Nikyema respectively, and the Special Representative of the Secretary-General of the United Nations Integrated Office in Burundi (BINUB), Youssef Mahamoud. The Special Adviser would like to express his deep gratitude to all of them.

7. Travelling with two staff members, the Special Adviser arrived in Kampala on 24 November, where he met with the Minister of State for Foreign Affairs and Regional Cooperation, Isaac Isanga Musumba, the Minister for Relief, Disaster Preparedness and Refugees, Tarsis Bazana Kabwegyere, the United Nations Resident Coordinator, other United Nations officials and the head of the MONUC liaison office in Kampala.

8. With regard to Burundi, the Special Adviser decided not to proceed to Bujumbura, as the Government authorities were in the end not available to meet with him. He decided, however, to dispatch his staff there, where they met with representatives of civil society and with United Nations officials.

9. On 26 November, the Special Adviser arrived in Kigali, where he met with the United Nations Resident Coordinator. On 27 November, he met with the Prime Minister, Bernard Makuza, the Minister for Foreign Affairs, Rosemary Museminali, the then Special Envoy of Rwanda for the Great Lakes region, Joseph Mutaboba, the Executive Secretary of the Gacaca Court, Domitilla Mukantaganwa, the Executive Secretary of the Commission nationale de lutte contre le genocide, Jean de Dieu Mucyo, and representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR).

10. On 28 November, the Special Adviser travelled to Kinshasa and met with the Minister for Foreign Affairs, Alexis Thambwe, the Special Envoy of the Secretary-General for the Great Lakes Region and former President of Nigeria, Olusegun Obasanjo, the MONUC Deputy Special Representative of the Secretary-General and staff of the Human Rights Division of MONUC. From 29 November to 2 December, the Special Adviser visited Goma, where he held meetings with the Governor and Vice-Governor of North Kivu, the commander of the eighth military region of the Armed Forces of the Democratic Republic of the Congo, the then leader of the Congrès national pour la défense du peuple (CNDP) Laurent Nkunda, the North Kivu spokesman of the Forces démocratiques de liberation du Rwanda (FDLR), civil society representatives, representatives of different ethnic communities, victims of mass atrocities, representatives of international non-governmental organizations and United Nations officials. The Special Adviser returned to Kinshasa and met with the Minister for Human Rights, Upio Kakura Wapol, two members of the Senate and representatives of civil society and the Catholic Church. The Special Adviser thanks all his interlocutors for their openness and willingness to share their concerns and views on the situation in North Kivu.

11. Since the mission, dramatic developments have taken place in the Democratic Republic of the Congo, which, as at 5 March 2009, consisted primarily of the concerted action by the armed forces of the Democratic Republic of the Congo and Rwanda to rein in FDLR and to integrate CNDP into the army of the Democratic Republic of the Congo. Some of the possible implications of these developments have been presented in the report.

III. Background

12. An analysis of the root causes of the current crisis in North Kivu is beyond the scope of this report.[1] Three issues are worth mentioning, however, as they provide

[1] See Mwesiga Baregu in the list of references.

significant insights into the Special Adviser's understanding of the situation: firstly, the weakness of the State in the Democratic Republic of the Congo, caused by the vastness of its territory and the 30-year rule of former President Mobutu, which resulted in high levels of corruption and the neglect of the country's infrastructure and Government functions; secondly, the interests and involvement of most of the Democratic Republic of the Congo's neighbours and other powers from further afar; and thirdly, the 1994 genocide in Rwanda, which changed dramatically the political, security and economic dynamics in the Great Lakes region and contributed to a series of wars in the Democratic Republic of the Congo itself.

IV. Methodology

13. In analysing any situation from the perspective of his mandate, the Special Adviser takes into account the following factors:

(a) The existence of a national, ethnic, racial or religious group at risk;

(b) A history or a pattern of violence, discrimination and biases against a group;

(c) Circumstances that negatively affect domestic capacity to prevent genocide;

(d) The existence of armed elements that draw their membership from a specific group;

(e) The existence of a political or economic motivation for leading actors in the State or in the region to encourage divisions between national, racial, ethnic or religious groups;

(f) The occurrence of human rights violations that are possible elements of the crime of genocide;

(g) Whether there is a reason to believe that there exists "intent to destroy in whole or in part" an ethnic, racial, national or religious group;

(h) Moments of vulnerability that may aggravate conditions or spark deterioration in the situation.

14. These eight categories constitute a framework of analysis which has been derived through wide consultations within the United Nations system and in cooperation with scholars, researchers and members of civil society. This framework was used to analyse the situation in North Kivu.

V. Analysis of the situation in North Kivu

A. Existence of national or ethnic groups at risk

15. The Kivu region of the eastern Democratic Republic of the Congo is populated by an estimated 70 ethnic groups. In addition, the region continues to host a number of Rwandan refugees of Hutu ethnic origin, who left Rwanda following the 1994 genocide.

16. The region is very volatile and its entire civilian population is vulnerable and constantly exposed to the conflicts between the various armed groups (referred to later in this report).

17. Nevertheless, as has been documented by researchers and human rights experts over the past several years (see list of references), one ethnic group, the Tutsi, is singled out for different treatment. The popular perception that CNDP drew its strength primarily from the Tutsi community, with the support of Rwanda, and the fact that the group had committed serious atrocities against the civilian population in North Kivu (such as in Kiwanja in November 2008), mostly against members of other ethnic groups (amounting in the eyes of many members of these groups to "genocide"), has exacerbated anti-Tutsi feelings and has contributed to the increasing risk of ethnic-based retaliatory violence that Tutsi groups now face.

18. The exposure and singling out of the Tutsi became very clear to the Special Adviser during a meeting with representatives of local civil society in Goma, where representatives of the Hunde, Nande, Nyanga, Hutu and Twa all expressed similar feelings, giving the impression that an alliance against the Tutsi has been emerging. Genocidal violence of a retaliatory nature was considered a possibility by victims and public officials alike, and while in some instances these threats and the emotions behind them were clearly overplayed, an anti-Tutsi bias was overwhelmingly evident. Recent developments do not necessarily change the situation, but might indeed encourage the perception that the Tutsi, and Rwanda, are enhancing their military position in the area, which could be a potential source of more tension.

19. At the same time, there are concerns that the Hutu civilians may now be more at risk, as military efforts to disarm the Hutu militias expand. Existing hostilities against "Rwandans" generally, including the Hutu refugees, could easily turn into anti-Hutu sentiments and be manipulated in the current shifting of alliances. Joint military operations by the Armed Forces of the Democratic Republic of the Congo, CNDP and the Rwandan Defence Force could easily fail to make appropriate distinctions between Hutu civilians and FDLR.

B. Ethnic-based discrimination and other human rights violations

20. The Democratic Republic of the Congo has a long history of massive human rights violations, in North Kivu and elsewhere, perpetrated by Government officials and various armed groups, including foreign armed groups and the national army. However, from the perspective of the mandate of the Special Adviser, the role that ethnicity has historically played in the commission of human rights violations is particularly significant. The Special Adviser consulted relevant available information prior to his mission (see list of references) in order to ascertain the ethnic factor in the conflicts.

21. The 1994 genocide in Rwanda destabilized the Democratic Republic of the Congo dramatically. One million Rwandan Hutu refugees poured into the eastern part of the country, including many individuals directly implicated in the genocide (the so-called *genocidaires*) as well as Hutu militias (the Interahamwe) and the remainder of Rwanda's armed forces. Using the refugee camps as military bases, these groups would attack Rwanda, whose Government was then led by the Tutsi-dominated Rwanda Patriotic Front. Members of the local Hutu community and other

ethnic communities supported these attacks.[2] The threat to Rwanda posed by Hutu militias as well as attacks against the local Tutsi population were used by Rwanda as a justification to invade the Democratic Republic of the Congo in 1996. During the invasion, massacres of the Hutu refugees and Congolese civilians took place.

22. Since 1996, the Democratic Republic of the Congo has been the battleground for wars in which as many as nine African countries were at times involved. These wars resulted in one of the most devastating humanitarian and human rights disasters, with millions of deaths from killings, famine and disease and many more millions of internally displaced persons.

23. Specifically with regard to the situation in the eastern Democratic Republic of the Congo, human rights experts, such as the Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, researchers and non-governmental organizations, have in the past pointed to the increasing marginalization and stigmatization of the Tutsi community, which was already evident during Mobutu's reign but has been exacerbated in the course of the wars since 1996.[3] As has been observed by the Committee on the Elimination of Racial Discrimination and the Human Rights Committee, those who originated from Rwanda and settled in the Democratic Republic of the Congo have faced difficulties in acquiring Congolese citizenship, although they fulfil the requirements of the 2004 nationality law. It is worth re-emphasizing that atrocities committed by Tutsi-led armed groups since then, and the rumours circulating about them, have contributed to this situation.

C. Circumstances that negatively affect domestic capacity to prevent genocide

24. As noted in various assessments, including by the Special Rapporteur on the independence of judges and lawyers, Leandro Despouy, following his mission to the Democratic Republic of the Congo in April 2007, the judicial system is in an alarming state resulting in widespread impunity and a licence to kill. Among other problems, judges and prosecutors are few and inadequately paid, encouraging corruption and lack of independence, and the infrastructure necessary for them to work is insufficient; interference by the executive authorities and the army in the administration of justice remains very common; and gaining access to justice is very difficult for the majority of the population because of corruption, lack of financial resources and the geographical remoteness of courts. In addition, military courts often hear cases of violations perpetrated on civilians; this is very problematic considering the particularly prevalent lack of independence of the military judicial system, pressure and interference by the military hierarchy and corruption.

25. Failure to hold individuals or Government officials accountable for human rights and humanitarian law violations is fuelling the current violence and entrenching a climate of impunity, exposing the Government's inability to bring perpetrators to justice and prompting OHCHR to establish a justice mapping project (supported by MONUC and the United Nations Development Programme), in order

[2] The information in this section is drawn largely from *Weiss and Carayannis* (see list references).

[3] Other vulnerable communities include the Twa and other forest-dependent peoples in the Democratic Republic of the Congo, but these fall outside the scope of the present report.

to record the most serious violations committed in the Democratic Republic of the Congo between March 1993 and June 2003, and to identify their victims and perpetrators.[4]

26. United Nations military support for the Government through MONUC, while significant in providing protection for civilians, does not substitute for the Government and MONUC is not in a position to engage in counter-insurgency warfare against armed groups. As the MONUC Force Commander explained to the Special Adviser, such a mission would need an "expeditionary" force, which would require a much larger force than the one currently authorized by the Security Council.

27. Furthermore, the international community's resources to continue to offer protection and assistance to victims of violations in the region, including refugees and internally displaced persons, are overstretched and are increasingly obstructed by the volatile security situation on the ground.

28. In addition, the State does not exercise effective control over the entirety of its territory and it is particularly weak in the eastern part of the country, leaving a vacuum in law and order and depriving population groups and individuals of the structures necessary for protection from potential genocide and related human rights violations.

D. Existence of armed elements that draw their membership from ethnic groups

29. The eastern Democratic Republic of the Congo has witnessed the emergence of multiple armed groups, often supported by the Government of the Democratic Republic of the Congo or other Governments. At various moments in the past 10 years, some of these groups have opposed the Armed Forces of the Democratic Republic of the Congo, but some have fought alongside those forces and against each other. Alliances have shifted and the groups themselves have changed names and composition. Some armed elements are widely associated with certain ethnic groups because they recruit principally from a particular ethnic community and because they may claim to protect that ethnic community. For example, FDLR is recognized as recruiting from the Rwandan refugee community, which is predominantly Hutu, while CNDP is thought to have recruited largely from Tutsi communities. Nevertheless, an exclusively ethnic analysis of armed actors and their activities would obscure the nuances of their membership and objectives. The involvement of neighbouring Governments, as documented, for instance, in the recent report of the Group of Experts on the Democratic Republic of the Congo, covering its monitoring the United Nations arms embargo on the Democratic Republic of the Congo,[5] further complicates the analysis.

30. As concerns the Armed Forces of the Democratic Republic of the Congo, at the time of the visit of the Special Adviser the general impression was that they were a very weak, almost negligible force in military terms, which had been unable to disarm FDLR and secure the territory. At the same time, elements of the Armed

[4] The project will also assess the capacity of the national justice system to deal with these violations and to make recommendations as regards options for transitional justice.

[5] Final report of the Group of Experts on the Democratic Republic of the Congo (S/2008/773).

Forces, acting with impunity, have been implicated in serious human rights and humanitarian law violations against all ethnic groups, including rapes, killings, extortions, the use of internally displaced persons as human shields and illegal exploitation of resources.

31. The armed groups active in North Kivu at the time of the mission were CNDP, FDLR and the Mayi-Mayi.

Congrès national pour la défense du peuple

32. CNDP, then led by dissident commander General Laurent Nkunda, was until recently the most powerful armed group in the eastern Democratic Republic of the Congo. It was composed of Tutsi as well as members of other ethnic groups. Nevertheless, the Tutsi were believed to occupy the highest commanding ranks of the armed movement. Its strength was reportedly between 4,000 and 7,000 men. The movement was believed to draw political and financial support from the Congolese and Rwandan diaspora in various African and non-African countries.[5] After the completion of the mission of the Special Adviser, rifts were reported to exist among the leadership of CNDP, in particular between Nkunda and his chief of staff, Bosco Ntaganda. As of late January 2009, Nkunda was confined in Rwanda, while some elements of CNDP were integrating into the Armed Forces of the Democratic Republic of the Congo and Ntaganda was reportedly cooperating with the Armed Forces in military operations. Ntaganda has been indicted by the International Criminal Court for the illegal recruitment of children.

33. Nkunda has been accused of committing atrocities in Kisangani in 2002 as well as in Bukavu in 2004, although he denies the accusations. The Democratic Republic of the Congo transitional Government had issued an international arrest warrant against him. He has also been accused of forced recruitment of children in the Masisi and Rutshuru territories of North Kivu, apparently in order to replenish his military strength after some of his units had agreed to join the Armed Forces integration (*brassage*) programme in 2003. CNDP has been implicated by United Nations sources in massive violations of human rights and humanitarian law in the eastern Democratic Republic of the Congo (for instance in the massacres in Kalonge and Bukombo and, in November 2008, in Kiwanja).

34. Although originally the disarmament and removal of FDLR from the Kivus and the protection of the Tutsi was CNDP's reported top priority, its agenda has been an evolving one. From professing to be the protector of the Tutsi in North Kivu, Nkunda later assumed the role of protector of all minorities in the Democratic Republic of the Congo. He then claimed to be fighting against bad governance in Kinshasa and, more recently, launched a campaign against the mining contracts signed by President Kabila with China without the approval of the mandated Government organs. Nkunda linked the ineffectiveness of the Government to all other problems, including the failed disarmament of FDLR, the alleged protection extended by the Government to FDLR and other non-State actors, the oppression of minorities and the mining contracts with China.

Forces démocratiques de liberation du Rwanda

35. The strength of FDLR at the time of the mission of the Special Adviser was reportedly between 6,000 and 7,000 men. The movement controls and illegally

exploits various mines in North Kivu and uses the revenues to purchase weapons and finance military training.

36. The Special Adviser met with the North Kivu FDLR spokesperson in Nyiragongo. During the meeting, the spokesperson recalled that the movement was formed in 2000 in response to the threat of extermination of the Hutu posed by the Rwandan attacks against the refugee camps in 1996 and that the main purpose of the group remained the protection of the Hutu against both the Rwandan and the Democratic Republic of the Congo Governments. He also identified MONUC as a threat to the survival of the movement and, thus, of its people, due to its disarmament, demobilization and reintegration mandate. During the meeting, the FDLR spokesperson denied any collaboration of FDLR with the Armed Forces of the Democratic Republic of the Congo against CNDP. He also stressed that ethnic reconciliation in Rwanda would be possible only if the alleged atrocities committed by Rwanda against the Hutu civilians was recognized.

37. In its Rome declaration of 2005, FDLR condemned the 1994 genocide and declared its commitment to voluntarily disarm and return to Rwanda, on the condition that the Hutu would be able to participate in politics in their country and that an international follow-up committee would be established to monitor their disarmament and return. Rwanda's reluctance to allow the remaining Hutu refugees to return, arguing that they are all implicated in the 1994 genocide, has caused frustration among the Rwandan Hutu population remaining in the Democratic Republic of the Congo. Indeed, among this population only a relatively small number can be considered to belong to the hardcore *genocidaire* group, while the rest are youth and children too young to be held accountable for the 1994 genocide. However, Rwanda probably fears that anti-Tutsi hatred is being cultivated within the Hutu population.

38. Contrary to accounts by the Government of Rwanda about a positive reception of the Hutu returnees, the FDLR spokesperson pointed out that the Hutu who had returned to Rwanda saw no prospect of economic, social and political integration and were seeking renewed exile in the Democratic Republic of the Congo. In the light of the above, voluntary disarmament of FDLR is highly unlikely until their concerns about their security, reintegration and freedom to participate in the political process in Rwanda are met. On the other hand, their continual confrontations with CNDP for the control of territory or access to resources justify allegations that FDLR represents a threat to security for the civilians in the eastern Democratic Republic of the Congo and to Rwanda.

39. During January and February 2009, joint Rwandan and Democratic Republic of the Congo forces were operating in the eastern Democratic Republic of the Congo with the purpose of reining in and disarming FDLR by force. This raises the prospect of intensified violence in the region, and scores of civilians were reportedly killed or displaced. The pullout of the Rwandan Defence Force at the end of February has re-kindled fears of reprisal attacks by FDLR, which reportedly has retained much of its strength in the area.

Mayi-Mayi

40. The Mayi-Mayi are civilian defence forces active in the Kivus and the Katanga region of the Democratic Republic of the Congo. They consist of loose associations of local Hutu, Nande and Hunde militias, which fight against any occupying force,

including Rwandan forces and their Congolese allies. Other than fighting the "Tutsi domination", they have no obvious clear objective and frequently shift alliances. The Mayi-Mayi/Coalition des patriotes resistants congolais (PARECO) group is said to receive weapons from the Armed Forces of the Democratic Republic of the Congo in return for support in operations against CNDP. Strong evidence also indicates their involvement in violations of human rights and humanitarian law (for instance in Bukombo from September 2007 to May 2008). Because of the lack of homogeneity and an organized structure, it proved impossible for the Special Adviser to organize meetings with any of their leaders. In January 2009, a number of Mayi-Mayi leaders were said to be willing to cease hostilities and to support the Armed Forces of the Democratic Republic of the Congo in military actions to dislodge FDLR.

E. Existence of political or economic motivations for leading actors in North Kivu to encourage divisions between ethnic groups

41. The Democratic Republic of the Congo is known for its rich natural resources, including in the eastern part of the country. North Kivu is rich in minerals such as coltan, gold and tin ore (cassiterite). Many local and international businesses, local officials, armed groups and neighbouring countries (including Rwanda and Uganda),[6] have vested interests in the region and benefit from the vacuum in State power and the illicit exploitation of resources. Virtually all of the interlocutors of the Special Adviser considered this illicit exploitation as one of the main causes of the current crisis in North Kivu.

42. Illegal exploitation of resources clearly plays a role in the fomentation of ethnic hatred in North Kivu, since elements that are perceived as associated to specific ethnic groups are involved in this illicit trade. It has been reported, for instance, that CNDP engaged with Rwanda in the trade of coltan[5] (even though Rwanda denies it), while elements of the Armed Forces of the Democratic Republic of the Congo, FDLR and the Mayi-Mayi illegally exploit the mines in their respective territories. Government officials and others benefit personally from the related corruption, or use militias to guard the mines, revenues sustain the militias and the arms trade in the region, and the conflict for territory and power continues. Indeed, some of the protagonists in the conflict in North Kivu are able to benefit from these resources only because of the conflict and instability.

43. These economic interests have a clear link to other issues in the area, such as land rights, the voluntary repatriation of refugees and the return to their homes of internally displaced persons, political representation of all groups and power sharing.

44. In such a context, affiliations are simplistically reduced to ethnic belonging: the popular perception is that some ethnic groups profit illegally and to the detriment of the Congolese people. The Tutsi, in particular, are not only suspected of disproportionate exploitation of natural resources but, given the perception that they are "foreigners", are also accused of being foreign occupiers who are illegally exploiting the resources of the Democratic Republic of the Congo.

[6] Report of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of the Congo (S/2003/1027).

F. Occurrence of human rights violations that can be possible elements of the crime of genocide

45. The Special Adviser has received many reports from sources in the United Nations and non-governmental organizations of serious human rights violations against civilians in North Kivu that have occurred over the last one year alone, including killings, rapes and displacement of the population. The Special Adviser has sought to ascertain whether these acts may have been targeting individuals specifically because of their ethnicity.

46. In some instances, this appears to have been the case. For example, the Special Adviser was informed that on 16 and 17 January 2008 in Kalonge, in the territory of Masisi, an attack was allegedly committed by CNDP forces against Hutu civilians, killing 30 persons.

47. However, many attacks and violations, including widespread rape, appear to be motivated by factors other than ethnicity and to have been perpetrated indiscriminately. For example, PARECO militias were reported to have attacked the Bukombo *groupement* in Rutshuru territory and killed 51 civilians and raped three women, including a child, between September 2007 and May 2008. During the same period and in the same area, CNDP allegedly killed 127 civilians. More recently, on 4 and 5 November 2008, in Kiwanja, Rutshuru territory, CNDP elements under the command of Bosco Ntaganda, allegedly killed 64 persons. The Armed Forces of the Democratic Republic of the Congo were also reported to have committed killings and rapes against civilians across North Kivu, for example in Kanyabayonga on 10 and 11 November 2008. It is widely acknowledged that rape destroys the social fabric of communities and erodes the basis on which ethnic reconciliation can be built.

G. Reason to believe that there may be an intent to destroy in whole or in part an ethnic group

48. Many human rights and humanitarian law violations appear to have been committed mainly as retaliation against civilians believed to be affiliated to enemy armed groups and upon withdrawal of an armed group from an occupied territory or from a battle line, irrespective, apparently, of ethnic affiliations. At the same time, the fact that a direct ethnic link could not be established at the time of the mission does not mean that such a link did not exist or could not be created in the near future. Killing parts of an ethnic group, thereby preventing future support for the enemy, is often linked with genocidal intent. In the context of the recent escalation of the crisis and based on the widespread ethnic hatred, therefore, the Special Adviser recognizes that the risk of ethnic targeting in North Kivu presently exists. More specifically, the likelihood of ethnically motivated killings by armed groups and the escalation of genocidal hysteria among the civilian population, especially against the Tutsi community, cannot and must not be excluded.

49. Furthermore, the Special Adviser was informed that hatred, in particular against the Tutsi, is expressed, sometimes publicly, by representatives of other ethnic groups and leaders of armed groups, as well as in the broadcasts of some local radios and on websites. More specifically, in such instances, the Tutsi are said to be portrayed as foreign occupiers and illegal exploiters of the national resources

of the Democratic Republic of the Congo; these may also contain an incitement to expel the Tutsi from the country. The Special Adviser does not exclude the possibility that different actors in the conflict could easily manipulate ethnic hatred towards an intent to destroy a specific ethnic group, whether Tutsi or another group, if the root causes of the crisis are not appropriately addressed in the near future.

H. Moments of vulnerability

50. During the mission, different interlocutors of the Special Adviser referred to the pending local elections, planned for mid-2009, as a potential trigger of renewed conflict. The outcome of the elections in North Kivu, if successfully carried out, could stabilize the political and security situation in the region; continued postponement might also heighten tensions, as officials currently serving have been appointed by the central Government.

VI. Conclusions

51. The Special Adviser is deeply concerned about the situation in North Kivu, which has implications for the whole subregion. In his opinion, unless the genuine concerns for political and security issues and the sharing of the resources of the region are addressed, the situation is unlikely to improve.

52. The Special Adviser is deeply concerned about the grave human rights and humanitarian situation that continues to unfold in the eastern Democratic Republic of the Congo. He would like to draw special attention to the recommendations made by the United Nations system, including the Secretary-General, the United Nations High Commissioner for Human Rights, experts and mediators, over the past several years, which, had they been implemented, would have forestalled the current crisis, including the risk of genocidal violence.

53. The Special Adviser is concerned that previous efforts at regional peacemaking, including with a view to preventing precisely the kinds of problems referred to in the present report (risk of genocide, illicit exploitation of natural resources, proliferation of armed groups, etc.), in particular the International Conference on the Great Lakes Region, appear to have been inadequate in addressing the crisis comprehensively, both nationally and regionally.

54. Although credible allegations of crimes and egregious violations of human rights and humanitarian norms have been made, the Special Adviser did not receive any credible information indicating a specific "intent to destroy in whole or in part" an ethnic or any other identity-related group. However, this kind of thorough investigation is not within his mandate and is a complicated legal and judicial process that is often only decisively determined after an instance of genocide has occurred and only by competent judicial bodies. The Special Adviser has reached the conclusion that hatred and stigmatization based on ethnicity are widespread in North Kivu.

55. Extreme ethnic polarization and hatred have become associated with the conflict in the Democratic Republic of the Congo, the root causes of which are primarily political and economic and not necessarily identity-related. However, the Special Adviser recognizes that the risk of ethnic targeting in North Kivu is

significantly pronounced above other underlying causes. References to genocide having occurred in the past or going on at present, are powerfully used as a pretext for arguing that genocide may again occur in the future, in particular against the Tutsi community, which is popularly perceived as perpetrating genocidal atrocities against the other ethnic groups. The likelihood of ethnically motivated killings by armed groups and the escalation of genocidal hysteria among the civilian populations are factors that must be taken seriously and addressed in earnest. The risk of genocide in the region is significant, thus immediate action by States in the region and the international community is imperative.

56. The Special Adviser has found a tendency on the part of the authorities of the Democratic Republic of the Congo to favour a military solution, in part by feeling "supported" by the presence of MONUC, whose presence in the protection of the civilian population is essential. This, however, may not serve the overriding goal of peace and security in the long term.

VII. Recommendations

57. The preventive action needed to respond to the situation in North Kivu focuses on four interrelated priority areas: (a) the protection of populations at risk against massive violations of human rights or humanitarian law; (b) accountability for violations; (c) humanitarian relief and access to economic, social and cultural rights; and (d) the initiation and support of steps to address underlying causes of conflict through peace agreements and transition processes. The United Nations system and its operational departments and organizations need to consider the above in designing their own strategies to address the risk of genocide and related atrocities.

58. From the very specific focus of his mandate, the Special Adviser makes the following recommendations:

Security and peace

(a) Calls on belligerents in the eastern Democratic Republic of the Congo to respect international humanitarian law and the safety of civilians should continue to be made;

(b) The capacity of the United Nations to protect civilians in situations of armed conflict, including the eastern Democratic Republic of the Congo, should continue to be enhanced;

(c) The Governments concerned should be urged to facilitate contingency planning for the protection of civilians and displaced persons in the event of intensified hostilities;

(d) All Governments should be called upon to cease immediately all assistance to illegal armed groups, including military and financial support;

(e) The process of voluntary disarmament and demobilization of all armed groups should be encouraged, as provided for in the mandate of MONUC;

Human rights and the rule of law

(f) All parties implicated in the conflict in North Kivu should be urged to end all killings, rapes, forced recruitment of children, forced displacement and other

violations of human rights and humanitarian law, whether or not they are ethnically motivated;

(g) All concerned Governments should be urged to cooperate in bringing to justice those accused of committing genocide and other crimes and mass atrocities;

(h) The role of the International Criminal Court and its commitment to fighting impunity, investigating allegations of international crimes and holding perpetrators accountable should be supported;

(i) Efforts to help the authorities of the Democratic Republic of the Congo to combat ethnic discrimination in line, inter alia, with the 2007 recommendations of the Committee on the Elimination of Racial Discrimination, should be enhanced; ethnic reconciliation in North Kivu should continue to be promoted; and ethnic reconciliation could be included in the United Nations programme of civic and electoral education, in view of the pending local elections;

(j) Tolerance, raising awareness of the risk of genocide and human rights education among all ethnic groups should be encouraged;

(k) Adequate representation and participation in political processes of all members of ethnic groups should be encouraged, including the displaced (internally displaced and refugees), not only in the Democratic Republic of the Congo but in the subregion as a whole; this could help stifle political manipulation of ethnic cleavages by armed groups;

(l) The authorities of the Democratic Republic of the Congo and other parties to the conflict should be urged to end spreading ethnic hatred and intolerance, including by taking measures to suspend radio programmes that are spreading hate messages and bringing to justice those responsible for inciting genocidal violence;

(m) The establishment of the National Human Rights Commission without further delay should be urged;

(n) The Government should be urged to take all necessary steps to strengthen the rule of law and combat impunity, in line with relevant pertinent recommendations made by the Special Rapporteur on the independence of judges and lawyers;

(o) The Government should be urged to develop appropriate mechanisms for transitional justice;

Political and economic sectors

(p) The Government of the Democratic Republic of the Congo should be urged to put in place an effective regulatory framework with regard to the use of natural resources and to effectively participate in relevant accountability mechanisms established to monitor the flow of revenues from extractive industries;

(q) The Democratic Republic of the Congo, other countries in the region and development partners should be supported to work together to restructure economic relations, in a manner that would benefit local governments and communities;

(r) The Democratic Republic of the Congo and its neighbours (in particular Rwanda and Burundi) should be supported to work together towards ethnic

reconciliation at the regional level, taking into account the wounds inflicted by the 1994 genocide in Rwanda and its aftermath, which remain to be healed;

(s) Work towards the identification of solutions to the issues of land rights, political representation and the voluntary repatriation of refugees at the regional level should be continued;

(t) Political solutions should continue to be prioritized, by maintaining high-profile support for the mediation efforts currently being undertaken by Special Envoys Obasanjo, Mkapa and others;

(u) Regional integration encompassing the Democratic Republic of the Congo, Rwanda, Uganda and other countries in the region, which would allow the free movement of trade and people, should be supported; this could build on the existing arrangements of the Southern African Development Community, the Common Market for Eastern and Southern Africa and others which, if fully developed, would ensure continued, but legal, access by foreign business to the mineral and logging resources of the Democratic Republic of the Congo, with resultant royalties and taxes to the benefit of the Government and people of the Democratic Republic of the Congo;

(v) The work of the International Conference on the Great Lakes Region should be enhanced and the obligations that Member States have undertaken, specifically with regard to the Protocol for the Prevention and the Punishment of the Crime of Genocide, War Crimes and Crimes against Humanity and all forms of Discrimination (article 8 of the Pact on Security, Stability and Development in the Great Lakes Region), should be recalled;

General

(w) It should be ensured that the approaches, objectives and strategies employed by the special envoys, representatives and other mediators playing a role in the peace process are unified, so that they do not inadvertently undermine each other;

(x) Vigilance and preparedness to act to stop immediately any genocidal incidents should be maintained.

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* In addition, the Special Adviser received confidential information from various sources, which is not reflected in the present list.

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United Nations S/2009/152

Security Council

Distr.: General
20 March 2009

Original: English

Japan: draft resolution

The Security Council,

Recalling its previous resolutions on Afghanistan, in particular its resolution 1806 (2008) extending through 23 March 2009 the mandate of the United Nations Assistance Mission in Afghanistan (UNAMA) as established by resolution 1662 (2006), and its resolution 1659 (2006) endorsing the Afghanistan Compact, and *recalling also* the report of the Security Council mission to Afghanistan, 21 to 28 November 2008 (S/2008/782),

Reaffirming its strong commitment to the sovereignty, independence, territorial integrity and national unity of Afghanistan,

Stressing the importance of a comprehensive approach to address the situation in Afghanistan, and *recognizing* that there is no purely military solution to ensure the stability of Afghanistan,

Reaffirming its continued support for the Government and people of Afghanistan as they rebuild their country, strengthen the foundations of sustainable peace and constitutional democracy and assume their rightful place in the community of nations,

Reaffirming in this context its support for the implementation, under the ownership of the Afghan people, of the Afghanistan Compact, of the Afghanistan National Development Strategy (ANDS) and of the National Drugs Control Strategy, and *noting* that sustained and coordinated efforts by all relevant actors are required to consolidate progress made towards their implementation and to overcome continuing challenges,

Recalling that the Afghanistan Compact is based on a partnership between the Afghan Government and the international community, based on the desire of the parties for Afghanistan to progressively assume responsibility for its own development and security, and with a central and impartial coordinating role for the United Nations,

Stressing the central and impartial role that the United Nations continues to play in promoting peace and stability in Afghanistan by leading the efforts of the international community, including, jointly with the Government of Afghanistan, the coordination and monitoring of efforts in implementing the Afghanistan Compact, and *expressing* its appreciation and strong support for the ongoing efforts of the

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Secretary-General, his Special Representative for Afghanistan and the women and men of UNAMA,

Welcoming the continued commitment of the international community to support the stability and development of Afghanistan, and also *welcoming* in this regard international initiatives including the special conference on Afghanistan under the aegis of the Shanghai Cooperation Organization to be held in Moscow on 27 March 2009, the International Conference on Afghanistan to be held in The Hague on 31 March 2009 and the Outreach Session of the G8 Ministerial Meeting to be held in Trieste on 26 to 27 June 2009,

Welcoming ongoing efforts to ensure an orderly, open, fair and democratic process that preserves stability and security through the election period, *underscoring* the challenges that the Afghan Independent Electoral Commission (IEC) is successfully confronting, and *welcoming* the announcement by the IEC to hold presidential and provincial council elections in August 2009,

Recognizing once again the interconnected nature of the challenges in Afghanistan, *reaffirming* that sustainable progress on security, governance and development, as well as the cross-cutting issue of counter-narcotics is mutually reinforcing and *welcoming* the continuing efforts of the Afghan Government and the international community to address these challenges through a comprehensive approach,

Stressing the importance of a comprehensive approach in addressing the challenges in Afghanistan and *noting*, in this context, the synergies in the objectives of UNAMA and of the International Security Assistance Force (ISAF), and *stressing* the need for strengthened cooperation, coordination and mutual support, taking due account of their respective designated responsibilities,

Stressing the need of urgently addressing the humanitarian situation through improving the reach, quality and quantity of humanitarian aid, ensuring efficient, effective and timely coordination and delivery of humanitarian assistance through enhanced coordination among the United Nations agencies, funds and programmes under the authority of the Special Representative of the Secretary-General and between the United Nations and other donors, and through the expansion and strengthening of the United Nations humanitarian presence in the provinces, where it is most needed,

Condemning the increasing attacks against humanitarian workers, and *underlining* the need for all parties to ensure safe and unhindered access of all humanitarian actors, including United Nations staff and associated personnel, and comply fully with applicable international humanitarian law,

Reiterating its concern about the security situation in Afghanistan, in particular the increased violent and terrorist activities by the Taliban, Al-Qaida, illegally armed groups, criminals and those involved in the narcotics trade, and the increasingly strong links between terrorism activities and illicit drugs, resulting in threats to the local population, including children, national security forces and international military and civilian personnel,

Expressing also its serious concern over the harmful consequences of violent and terrorist activities by the Taliban, Al-Qaida and other extremist groups on the capacity of the Afghan Government to guarantee the rule of law, to provide security

and basic services to the Afghan people, and to ensure the improvement and protection of their human rights and fundamental freedoms,

Recognizing the increased threats posed by the Taliban, Al-Qaida and other extremist groups as well as the challenges related to the efforts to address such threats,

Recalling its resolutions 1674 (2006) and 1738 (2006) on the protection of civilians in armed conflict, *expressing* its concern at the high number of civilian casualties as stated in the recent report of the Secretary-General on the situation in Afghanistan, *reiterating* its call for all feasible steps to be taken to ensure the protection of civilians, and *calling for* compliance with international humanitarian and human rights law as applicable,

Expressing also concern with the serious threat that anti-personnel mines, remnants of war and improvised explosive devices may pose to the civilian population, and *stressing* the need to refrain from the use of weapons and devices prohibited by international law,

Welcoming the declaration addressed to the International Narcotics Control Board (INCB) by the Government of Afghanistan that there is no legal use for acetic anhydride in Afghanistan for the time being and that producing and exporting countries should abstain from authorizing the export of this substance to Afghanistan without the request from the Afghan Government, and *encouraging*, pursuant to resolution 1817 (2008), Member States to increase their cooperation with the INCB, notably by fully complying with the provisions of article 12 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988,

Recalling the importance of the Kabul Declaration of 22 December 2002 on Good-Neighbourly Relations (Kabul Declaration) (S/2002/1416), *looking forward* to the Third Regional Economic Cooperation Conference on Afghanistan to be held in Islamabad, and *stressing* the crucial importance of advancing regional cooperation as an effective means to promote security, governance and development in Afghanistan,

Expressing its support for the Afghan-Pakistani Peace Jirga process,

Recalling its resolutions 1265 (1999), 1296 (2000), 1674 (2006) and 1738 (2006) on the protection of civilians in armed conflict, its resolutions 1325 (2000) and 1820 (2008) on women and peace and security, and its resolution 1612 (2005) on children and armed conflict, and *taking note* of the report of the Secretary-General (S/2008/695) on Children and Armed Conflict in Afghanistan,

1. *Welcomes* the report of the Secretary-General of 10 March 2009 (S/2009/135);

2. *Expresses its appreciation* for the United Nations long-term commitment to work with the Government and the people of Afghanistan and *reiterates* its full support to the work of UNAMA and the Special Representative of the Secretary-General;

3. *Decides* to extend the mandate of UNAMA, as defined in its resolutions 1662 (2006), 1746 (2007) and 1806 (2008), until 23 March 2010;

4. *Decides* further that UNAMA and the Special Representative of the Secretary-General, within their mandate and guided by the principle of reinforcing Afghan ownership and leadership, will continue to lead the international civilian efforts, in accordance with their priorities as laid out in paragraph 4 of its resolution 1806 (2008), to, namely:

(a) promote, as co-chair of the Joint Coordination and Monitoring Board (JCMB), more coherent support by the international community to the Afghan Government and the adherence to the principles of aid effectiveness enumerated in the Afghanistan Compact, including through mobilization of resources, coordination of the assistance provided by international donors and organizations, and direction of the contributions of United Nations agencies, funds and programmes, in particular for counter-narcotics, reconstruction and development activities;

(b) strengthen the cooperation with ISAF at all levels and throughout the country, in accordance with their existing mandates, in order to improve civil-military coordination, to facilitate the timely exchange of information and to ensure coherence between the activities of national and international security forces and of civilian actors in support of an Afghan-led development and stabilization process, including through engagement with provincial reconstruction teams and engagement with non-governmental organizations;

(c) through a strengthened and expanded presence throughout the country, provide political outreach, promote at the local level the implementation of the Compact, of the ANDS and of the National Drugs Control Strategy, and facilitate inclusion in and understanding of the Government's policies;

(d) provide good offices to support, if requested by the Afghan Government, the implementation of Afghan-led reconciliation programmes, within the framework of the Afghan Constitution and with full respect for the implementation of measures introduced by the Security Council in its resolution 1267 (1999) and other relevant resolutions of the Council;

(e) support and strengthen efforts to improve governance and the rule of law and to combat corruption at the local and national levels, and to promote development initiatives at the local level with a view to helping bring the benefits of peace and deliver services in a timely and sustainable manner;

(f) play a central coordinating role to facilitate the delivery of humanitarian assistance in accordance with humanitarian principles and with a view to building the capacity of the Afghan Government, including by providing effective support to national and local authorities in assisting and protecting internally displaced persons and to creating conditions conducive to the voluntary, safe, dignified and sustainable return of refugees and internally displaced persons;

(g) continue, with the support of the Office of the United Nations High Commissioner for Human Rights, to cooperate with the Afghan Independent Human Rights Commission (AIHRC), to cooperate also with relevant international and local non-governmental organizations, to monitor the situation of civilians, to coordinate efforts to ensure their protection and to assist in the full implementation of the fundamental freedoms and human rights provisions of the Afghan Constitution and international treaties to which Afghanistan is a State party, in particular those regarding the full enjoyment by women of their human rights;

(h) support, at the request of the Afghan authorities, preparations for the crucial upcoming presidential elections, in particular through the IEC, by providing technical assistance, coordinating other international donors, agencies and organizations providing assistance and channelling existing and additional funds earmarked to support the process;

(i) support regional cooperation to work towards a stable and prosperous Afghanistan;

5. *Calls upon* all Afghan and international parties to coordinate with UNAMA in the implementation of its mandate and in efforts to promote the security and freedom of movement of United Nations and associated personnel throughout the country;

6. *Stresses* the importance of strengthening and expanding the presence of UNAMA and other United Nations agencies, funds and programmes in the provinces, *encourages* the Secretary-General to continue his current efforts to take necessary measures to address the security issues associated with such strengthening and expansion, and *underlines* the authority of the Special Representative of the Secretary-General in the coordination of all activities of United Nations agencies, funds and programmes in Afghanistan;

7. *Underscores* the importance of the upcoming presidential and provincial council elections to Afghanistan's democratic development, *calls* for all efforts to be made to ensure the credibility, safety and security of the elections, *recognizes* UNAMA's key role, at the request of the Afghan Government, in supporting the electoral process, and *calls upon* members of the international community to provide the necessary assistance to these ends;

8. *Calls on* the Afghan Government, and the international community and international organizations, to implement the Afghanistan Compact and its annexes in full, and *stresses* in this context the importance of meeting the benchmarks and timelines of the Compact for progress on security, governance, the rule of law and human rights, and economic and social development, as well as the cross-cutting issue of counter-narcotics;

9. *Reaffirms* the central role played by the JCMB in coordinating, facilitating and monitoring the implementation of the Compact and *calls upon* all relevant actors to cooperate with the JCMB in this regard;

10. *Calls on* international donors and organizations and the Afghan Government to adhere to their commitments made at the International Conference in Support of Afghanistan, held in Paris on 12 June 2008 and *reiterates* the importance of further efforts in improving aid coordination and effectiveness, including by ensuring transparency, and combating corruption;

11. *Calls upon* the Afghan Government, with the assistance of the international community, including ISAF and the Operation Enduring Freedom coalition, in accordance with their respective designated responsibilities as they evolve, to continue to address the threat to the security and stability of Afghanistan posed by the Taliban, Al-Qaida, illegally armed groups, criminals and those involved in the narcotics trade;

12. *Condemns* in the strongest terms all attacks, including Improvised Explosive Device attacks, suicide attacks and abductions, targeting civilians and

Afghan and international forces and their deleterious effect on the stabilization, reconstruction and development efforts in Afghanistan, and *condemns further* the use by the Taliban and other extremist groups of civilians as human shields;

13. *Welcomes* the achievements to date in the implementation of the Mine Action Programme of Afghanistan, and *encourages* the Government of Afghanistan, with the support of the United Nations and all the relevant actors, to continue its efforts towards the removal of anti-personnel landmines, anti-tank landmines and explosive remnants of war in order to reduce the threats posed to human life and peace and security in the country;

14. *Recognizes* the efforts taken by ISAF and other international forces to minimize the risk of civilian casualties, and *calls on* them to continue to take robust efforts in this regard, notably by the continuous review of tactics and procedures and the conduct of after-action reviews and investigations in cooperation with the Afghan Government in cases where civilian casualties have occurred and when the Afghan Government finds these joint investigations appropriate;

15. *Emphasizes* the importance of ensuring access for relevant organizations, as applicable, to all prisons and places of detention in Afghanistan, and *calls for* full respect for relevant international law including humanitarian law and human rights law;

16. *Expresses* its strong concern about the recruitment and use of children by Taliban forces in Afghanistan as well as the killing and maiming of children as a result of the conflict, *reiterates* its strong condemnation of the recruitment and use of child soldiers in violation of applicable international law and all other violations and abuses committed against children in situations of armed conflict, in particular attacks against schools, *calls for* those responsible to be brought to justice, *stresses* the importance of implementing Security Council resolution 1612 (2005), in this context, and *requests* the Secretary-General to strengthen the child protection component of UNAMA, in particular through the appointment of child protection advisers;

17. *Reiterates* the importance of increasing, in a comprehensive framework, the functionality, professionalism and accountability of the Afghan security sector through training, mentoring and empowerment efforts, in order to accelerate progress towards the goal of self-sufficient and ethnically balanced Afghan security forces providing security and ensuring the rule of law throughout the country;

18. *Welcomes* in this context the continued progress in the development of the Afghan National Army and its improved ability to plan and undertake operations, and *encourages* sustained training efforts, including through the Operational Mentoring and Liaison Teams, and advice in developing a sustainable defence planning process as well as assistance in defence reform initiatives;

19. *Takes note with appreciation* of the recent serious efforts of the Afghan authorities to enhance the capabilities of the Afghan National Police, *calls for* further efforts towards that goal, including through the Focused District Development, and *stresses* the importance, in this context, of international assistance through financial support and provision of trainers and mentors, including the contribution of the European Union through its police mission (EUPOL Afghanistan);

20. *Welcomes* the progress in the implementation by the Afghan Government of the programme of disbandment of illegal armed groups, and *calls for* accelerated efforts for further progress, with support from the international community;

21. *Takes note of* the recent progress in addressing opium production, *remains* concerned at the serious harm that opium cultivation, production and trafficking continue to cause to the security, development and governance of Afghanistan as well as to the region and internationally, *calls on* the Afghan Government, with the assistance of the international community, to accelerate the implementation of the National Drug Control Strategy, including through alternative livelihood programmes, and to mainstream counter-narcotics throughout national programmes, and *encourages* additional international support for the four priorities identified in that Strategy;

22. *Calls upon* States to strengthen international and regional cooperation to counter the threat to the international community posed by the illicit production and trafficking of drugs originated in Afghanistan, including through border management cooperation in drug control and cooperation for the fight against the illicit trafficking in drugs and precursors and against money-laundering linked to such trafficking, taking into account the outcome of the Second Ministerial Conference on Drug Trafficking Routes from Afghanistan organized by the Government of the Russian Federation in cooperation with the United Nations Office on Drugs and Crime held in Moscow from 26 to 28 June 2006 (S/2006/598), within the framework of the Paris Pact initiative, and, in this regard, *calls for* full implementation of its resolution 1817 (2008);

23. *Welcomes* the launch of the National Justice Programme, and *reiterates* the importance of its full, sequenced, timely and coordinated implementation by all the relevant Afghan institutions and other actors in view of accelerating the establishment of a fair and transparent justice system, eliminating impunity and contributing to the affirmation of the rule of law throughout the country;

24. *Stresses* in this context the importance of further progress in the reconstruction and reform of the prison sector in Afghanistan, in order to improve the respect for the rule of law and human rights therein;

25. *Notes with strong concern* the effects of widespread corruption on security, good governance, counter-narcotics efforts and economic development, and *urges* the Afghan Government, with the assistance of the international community, to vigorously lead the fight against corruption, and to enhance its efforts to establish a more effective, accountable and transparent administration;

26. *Encourages* all Afghan institutions, including the executive and legislative branches, to work in a spirit of cooperation, *calls on* the Afghan Government to pursue continued legislative and public administration reform in order to ensure good governance, full representation and accountability at both national and subnational levels, and *stresses* the need for further international efforts to provide technical assistance in this area;

27. *Encourages* the international community to assist the Government of Afghanistan in making capacity-building and human resources development a cross-cutting priority;

28. *Calls for* full respect for human rights and fundamental freedoms and international humanitarian law throughout Afghanistan, *notes with concern* the increasing restrictions on freedom of media, *commends* the AIHRC for its courageous efforts to monitor respect for human rights in Afghanistan as well as to foster and protect these rights and to promote the emergence of a pluralistic civil society, and *stresses* the importance of full cooperation with the AIHRC by all relevant actors;

29. *Recognizes* the significant progress achieved on gender equality in Afghanistan in recent years, *strongly condemns* continuing forms of discrimination and violence against women and girls, in particular violence aimed at preventing girls from attending schools, *stresses* the importance of implementing Security Council resolutions 1325 (2000) and 1820 (2008), and *requests* the Secretary-General to continue to include in its reports to the Security Council relevant information on the process of integration of women into the political, economic and social life of Afghanistan;

30. *Welcomes* the efforts of the Afghan Government to promote dialogue with those elements in opposition to the Government who are ready to renounce violence, denounce terrorism and accept the Afghan Constitution, and *calls for* enhanced efforts to ensure the full implementation of the Action Plan on Peace, Justice and Reconciliation in accordance with the Afghanistan Compact, without prejudice to the implementation of measures introduced by the Security Council in its resolution 1267 (1999) of 15 October 1999 and other relevant resolutions of the Security Council;

31. *Welcomes* the cooperation of the Afghan Government and UNAMA with the Security Council Committee established pursuant to resolution 1267 (1999) with the implementation of resolution 1822 (2008), including by identifying individuals and entities participating in the financing or support of acts or activities of Al-Qaida and the Taliban using proceeds derived from illicit cultivation, production and trafficking of narcotic drugs and their precursors, and *encourages* the continuation of such cooperation;

32. *Welcomes* ongoing efforts by the Government of Afghanistan and its neighbouring and regional partners to foster trust and cooperation with each other as well as recent cooperation initiatives developed by the countries concerned and regional organizations, including the Second Trilateral Summit of Afghanistan, Pakistan and Turkey held in Istanbul in December 2008 and the ministerial meeting in La Celle Saint-Cloud, France, in December 2008, and *stresses* the importance of increasing cooperation between Afghanistan and the partners against the Taliban, Al-Qaida and other extremist groups, in promoting peace and prosperity in Afghanistan and in fostering cooperation in the economic and development sectors as a means to achieve the full integration of Afghanistan into regional dynamics and the global economy;

33. *Calls for* strengthening the process of regional economic cooperation, including measures to facilitate regional trade, to increase foreign investments and to develop infrastructure, noting Afghanistan's historic role as a land bridge in Asia;

34. *Recognizes* the importance of voluntary, safe, orderly return and sustainable reintegration of the remaining Afghan refugees for the stability of the

country and the region, and *calls for* continued and enhanced international assistance in this regard;

35. *Affirms* also the importance of voluntary, safe, orderly return and sustainable reintegration of the internally displaced persons;

36. *Requests* the Secretary-General to report to the Council every three months on developments in Afghanistan, and to develop, for inclusion in his next report, benchmarks for measuring and tracking progress in the implementation of UNAMA's mandate and priorities as set out in paragraph 4 of this resolution, and *calls on* all actors concerned to cooperate with UNAMA in this process;

37. *Decides* to remain actively seized of the matter.

United Nations S/2009/153

Security Council

Distr.: General
25 March 2009

Original: English

Letter dated 23 March 2009 form the Permanent Observer of Palestine to the United Nations addressed to the President of the Security Council

I have the honour to request that, in accordance with its previous practice, the Security Council invite the Permanent Observer of Palestine to the United Nations to participate in the meeting of the Council that will be held on Wednesday, 25 March 2009, regarding the situation in the Middle East, including the Palestinian question.

(Signed) Riyad **Mansour**
Ambassador
Permanent Observer

09-28050 (E) 250309

United Nations S/2009/154

Security Council

Distr.: General
25 March 2009

Original: English

Austria, Croatia, France, Germany, Italy, Russian Federation, Turkey, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

The Security Council,

Recalling all its previous relevant resolutions,

Recalling also the General Framework Agreement for Peace in Bosnia and Herzegovina and the annexes thereto (collectively the Peace Agreement, S/1995/999, annex), and the conclusions of the Peace Implementation Conferences held in Bonn on 9 and 10 December 1997 (S/1997/979, annex), Madrid on 16 and 17 December 1998 (S/1999/139, appendix) and Brussels on 23 and 24 May 2000 (S/2000/586, annex), Declarations by the Steering Board of the Peace Implementation Council on 27 February 2008 and 20 November 2008 as well as the Statement by the Steering Board of the Peace Implementation Council on 13 March 2009,

1. *Welcomes* and agrees to the designation by the Steering Board of the Peace Implementation Council on 13 March 2009 of Mr. Valentin Inzko as High Representative in succession to Mr. Miroslav Lajčák;

2. *Pays tribute* to the efforts of Mr. Miroslav Lajčák in his work as High Representative;

3. *Reaffirms* the importance it attaches to the role of the High Representative in pursuing the implementation of the Peace Agreement and giving guidance to and coordinating the activities of the civilian organizations and agencies involved in assisting the parties to implement the Peace Agreement;

4. *Reaffirms also* the final authority of the High Representative in theatre regarding the interpretation of annex 10 on civilian implementation of the Peace Agreement;

5. *Takes note of* the Declarations of the Steering Board of the Peace Implementation Council of 27 February 2008 and 20 November 2008 regarding fulfilment of the five objectives and two conditions required for a transition from the Office of the High Representative to an Office of the EU Special Representative in Bosnia and Herzegovina;

6. *Decides* to remain seized of the matter.

09-28031 (E) 250309

United Nations A/63/776–S/2009/155

General Assembly
Security Council

Distr.: General
20 March 2009
English
Original: Arabic

General Assembly
Sixty-third session
Agenda item 15
The situation in the Middle East

Security Council
Sixty-fourth year

Identical letters dated 19 March 2009 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council

On instructions from my Government, I transmit to you herewith a statistical summary of Israeli violations committed from 1 to 14 March 2009 (see annex).

I should be grateful if you would have this letter and its annex circulated as a document of the sixty-third session of the General Assembly, under agenda item 15, and of the Security Council.

(*Signed*) Nawaf **Salam**
Permanent Representative

09-27537 (E) 230309 250309

Annex to the identical letters dated 19 March 2009 from the Permanent Representative of Lebanon to the United Nations addressed to the Secretary-General and the President of the Security Council

Israeli violations, acts of aggression and other activities from 1 to 14 March 2009, inclusive

Air violations

On 5 March 2009:

- Between 1000 and 1140 hours, six Israeli enemy warplanes violated Lebanese airspace. Four entered over the occupied Shab'a Farms and two over Aytarun. They circled over all regions of Lebanon before leaving over the aforementioned Farms;
- Between 0700 and 1559 hours, an Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Naqurah and flying north. It circled over the regions of the South and left over Naqurah.

On 6 March 2009:

- Between 0007 and 0035 hours, two Israeli enemy warplanes violated Lebanese airspace, entering over the sea off Byblos and flying east as far as Baalbek. They circled over the regions of Baalbek, Byblos and Shikka before leaving over Aytarun;
- Between 1500 and 1535 hours, two Israeli enemy warplanes violated Lebanese airspace, entering over Kafr Killa and flying north as far as Shikka. They circled over Shikka, Byblos and the Bekaa before leaving over Alma al-Sha'b;
- At 0340 hours, an Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Kafr Killa and flying north as far as Baalbek. It circled over the regions of Baalbek, the South and the Western Bekaa before leaving at 0247 hours on 7 March 2009 over Kafr Killa.

On 7 March 2009, between 0215 and 0645 hours, an Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Rumaysh. It circled over the regions of the South and the Western Bekaa before leaving over Kafr Killa.

On 8 March 2009:

- Between 1100 and 1415 hours, an Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Naqurah and flying north. It circled over the South before leaving over Naqurah;
- Between 1940 and 2000 hours, an Israeli enemy reconnaissance aircraft violated Lebanese airspace, circling at high altitude over the Ra's al-Naqurah region.

On 9 March 2009, between 1150 and 1415 hours, an Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Naqurah and flying north. It circled over the South and the Western Bekaa before leaving over Rumaysh.

On 11 March 2009, between 0700 and 2120 hours, an Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Naqurah and flying towards Juniyah. It circled over the South and the Bekaa before leaving over Alma al-Sha'b.

On 12 March 2009:

- Between 0535 and 2050 hours, an Israeli enemy reconnaissance aircraft violated Lebanese airspace, entering over Naqurah and flying north. It circled over the South before leaving over Alma al-Sha'b;
- Between 1000 and 1100 hours, four Israeli enemy warplanes violated Lebanese airspace, entering over Aytarun and flying north. They circled over all regions of Lebanon before leaving over Alma al-Sha'b;
- Between 1152 and 1210 hours, two Israeli enemy warplanes violated Lebanese airspace. They circled over all regions of Lebanon before leaving over Kafr Killa.

Sea violations

On 1 March 2009:

- At 2025 hours, the Israeli enemy, from its position at Ra's al-Naqurah, directed a searchlight for five seconds towards Lebanese territorial waters some 50 metres north of buoy No. 1;
- At 2258 hours, the Israeli enemy, from its position at Ra's al-Naqurah, directed a searchlight for five seconds towards Lebanese territorial waters.

On 2 March 2009, the Israeli enemy, from its position at Ra's al-Naqurah, directed a searchlight as follows:

- At 1950 hours, for five seconds, some 200 metres inside Lebanese territorial waters;
- At 2000 hours, for four seconds, some 100 metres inside Lebanese territorial waters between buoys Nos. 3 and 4.

On 6 March 2009:

- The Israeli enemy, from its position at Ra's al-Naqurah, directed a searchlight towards Lebanese territorial waters as follows:
  - At 0307 hours, for seven seconds, towards the north of the line of buoys some 500 metres inside Lebanese territorial waters;
  - At 0428 hours, for seven seconds, north of buoy No. 4 in the line of buoys, some 500 metres inside Lebanese territorial waters;
  - At 1810 hours, an Israeli enemy patrol boat was observed inside Lebanese territorial waters, four miles north of the line of buoys, nine miles west of Bayyadah. It left at 1830 hours.

On 8 March 2009:

- At 2314 hours, the Israeli enemy directed a searchlight for five seconds towards Lebanese territorial waters around buoy No. 6 and in the direction of the Lebanese General Security position in Ra's al-Naqurah;

– At 2058 hours, the Israeli enemy, from its position at Ra's al-Naqurah, directed a searchlight for five seconds towards Lebanese territorial waters some 400 metres to the north of buoys Nos. 2 and 3. It repeated the exercise for 10 seconds at 2114 hours, targeting the same area.

On 9 March 2009, at 2117 hours, the Israeli enemy, from its position at Ra's al-Naqurah, directed a searchlight for five seconds towards Lebanese territorial waters some 400 metres to the north of buoys Nos. 1 and 2.

On 10 March 2009, at 2020 hours, the Israeli enemy, from its position at Ra's al-Naqurah, directed a searchlight for 12 seconds towards Lebanese territorial waters between the shore and buoy No. 1.

On 12 March 2009:

– At 1912 hours, the Israeli enemy, from its position at Ra's al-Naqurah, directed a searchlight for four seconds towards a Lebanese fishing boat that was north of buoy No. 2;

– At 2013 hours, an Israeli enemy military patrol boat directed a searchlight for 10 seconds towards Lebanese territorial waters to the north of buoy No. 7.

On 13 March 2009, at 1905 hours, the Israeli enemy, from its position at Ra's al-Naqurah, directed a searchlight for 10 seconds towards Lebanese territorial waters some 200 metres north of buoy No. 3.

On 14 March 2009, at 2130 hours, the Israeli enemy, from its position at Ra's al-Naqurah, directed a searchlight for five seconds towards Lebanese territorial waters some 500 metres north of buoy No. 3.

Acts of aggression in the field

On 8 March 2009:

– At 1220 hours, Israeli soldiers close to Kafr Killa verbally abused a Lebanese Armed Forces soldier at a Twelfth Brigade observation post. That soldier did not respond in any way;

– At 2210 hours, the Israeli enemy, from its position at Ra's al-Naqurah, directed a searchlight for five seconds towards Lebanese Armed Forces and Border Security positions. It did so again, for a further five seconds, at 2314 hours.

On 11 March 2009, at 1745 hours, at the Fatimah Gate, an Israeli enemy patrol in a Hummer jeep directed obscene verbal abuse at guards from the Lebanese Armed Forces Twelfth Mechanized Brigade who were in position at the Gate. The incident was witnessed by a Spanish Battalion patrol that had stopped at the position.

On 12 March 2009, at 1640 hours, when an Israeli enemy patrol comprising two Hummer jeeps was passing the Fatimah Gate, an element got out of the second vehicle and directed obscene verbal abuse at three young Lebanese girls on the Lebanese side of the border. The incident took place in the hearing of a United Nations Interim Force in Lebanon Spanish Battalion patrol that had stopped at the position.

United Nations A/63/781–S/2009/156

General Assembly
Security Council

Distr.: General
24 March 2009

Original: English

General Assembly
Sixty-third session
Agenda items 13 and 18

Protracted conflicts in the GUAM area and their implications for international peace, security and development

The situation in the occupied territories of Azerbaijan

Security Council
Sixty-fourth year

Letter dated 23 March 2009 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

I would like to submit herewith for your attention the text of the memorandum entitled "Nagorny Karabakh: peaceful negotiations and Azerbaijan's militaristic policy" (see annex).

I would highly appreciate if you could circulate the text of the memorandum as a document of the General Assembly, under agenda item 13 and 18, and of the Security Council.

(*Signed*) Armen **Martirosyan**
Ambassador
Permanent Representative

09-27938 (E) 060409

Please recycle

Annex to the letter dated 23 March 2009 from the Permanent Representative of Armenia to the United Nations addressed to the Secretary-General

Nagorny Karabakh: peace negotiations and Azerbaijan's militaristic policy

March 2009

Foreword

Taking into consideration the fact that the reports transmitted by the Republic of Azerbaijan to the United Nations General Assembly on 22 and 26 December 2008, namely "Report on the legal consequences of armed aggression by the Republic of Armenia against the Republic of Azerbaijan" and "Report on the fundamental norm of the territorial integrity of States and the right to self-determination in the light of Armenia's revisionist claims", as well as the "Reports on the international legal responsibilities of Armenia as the belligerent occupier of Azerbaijani territory" and "Support by States Members of the United Nations and international organizations to Azerbaijan's position on the conflict in and around the Nagorny Karabakh region of Azerbaijan" circulated by Azerbaijan on 23 January and 17 February 2009, misinterpret the essence of the Nagorny Karabakh problem and hinder the process of peaceful settlement, the Permanent Mission of the Republic of Armenia to the United Nations distributes the following report on Nagorny Karabakh.

Militaristic policy pursued by Azerbaijan on the Nagorny Karabakh conflict resolution has recently severely intensified and is posing a serious threat to the regional peace and security. This, in turn, significantly hinders the process of the peaceful settlement of the conflict within the framework of the OSCE Minsk Group.

In the South Caucasus, any careless word, any irresponsible step can trigger unpredictable consequences, while the military build-up in Azerbaijan and bellicose statements made at the highest level add tension to the overall environment. Contrary to the spirit of the negotiations within the OSCE Minsk Group, Azerbaijan has, for years, been developing and carrying out a large-scale campaign of anti-Armenian propaganda, instilling racial hatred and intolerance against the Armenians.

Within a short period of time Azerbaijan has increased its military budget tenfold, blatantly violating the norms of arms limitation stipulated by the international treaties, particularly exceeding the maximum permissible limits of the armaments specified under the Treaty on Conventional Armed Forces in Europe. Azerbaijan's hostile statements and threats, as well as frequent violations of the existing ceasefire, constitute elements of aggression.

On the international arena, Azerbaijan consistently misrepresents the essence of the Nagorny Karabakh problem, trying to conceal the ethnic cleansings and its policy of violence conducted against the people of Nagorny Karabakh in 1988-1991. Consequently, these actions developed into open aggression and large-scale hostilities against the self-determined people of the Republic of Nagorny Karabakh.

which also involved mercenaries closely linked to terrorist organizations, and ultimately claimed the lives of tens of thousands of civilians.

Wounds of the previous war, unleashed by Azerbaijan, are still raw, but Azerbaijan is already pursuing a policy aimed at provoking a new one. In the United Nations General Assembly and Security Council the Azerbaijani side has circulated "reports" and draft resolutions on the Nagorny Karabakh problem, which not only have a negative impact on the process of negotiations, but also contain Azerbaijan's intent to legitimize possible military aggression against Nagorny Karabakh and the Republic of Armenia.

The Republic of Armenia believes that there is a serious basis for the settlement of the Nagorny Karabakh problem, if the provisions contained in the Declaration signed by the Presidents of the Republic of Armenia, the Republic of Azerbaijan and the Russian Federation on 2 November 2008, in Moscow, and also in the Declaration of the Foreign Ministers of the Co-Chair countries of the OSCE Minsk Group issued in Helsinki on 4 December 2008, and in the Declaration adopted by the Foreign Ministers of all 56 OSCE member States on 5 December 2008, are implemented. According to these documents, any military option must be ruled out as a means to solve the Nagorny Karabakh conflict, the parties must commit themselves to a political, peaceful settlement of the problem through negotiations, based on the "Madrid Recommendations" of the Co-Chairs of the OSCE Minsk Group.

Armenia is convinced that the commitment of the parties to refrain from steps that could hamper the dialogue and the peace process can create an opportunity for progress in the peaceful settlement of the Nagorny Karabakh problem.

I. Current phase of peace negotiations and Azerbaijan's destructive conduct

1. The current phase of the Nagorny Karabakh conflict started in 1988, when, in response to a just demand for self-determination by the population of Nagorny Karabakh, the authorities of the Azerbaijani SSR perpetrated massacres and ethnic cleansing of Armenians all over the country. In 1991, as a result of the collapse of the USSR, and in compliance with the USSR legislation and norms of international law, two States were established on the territory of the Azerbaijani SSR — the Republic of Azerbaijan and the Republic of Nagorny Karabakh. However, Azerbaijan launched large-scale hostilities against the Republic of Nagorny Karabakh, also involving mercenaries closely linked to terrorist organizations, which claimed the lives of tens of thousands of civilians and caused substantial material losses.

2. At the start of the war, the Republic of Azerbaijan occupied the major part of the Republic of Nagorny Karabakh, nearly reaching its capital Stepanakert. To ensure the security of its people, the armed forces of the Republic of Nagorny Karabakh were forced to carry the military actions into the territory of the adversary and took control of the adjacent regions, which served as a security buffer, preventing further bombardment of the settlements in Nagorny Karabakh and annihilation of its population. However, the armed forces of the Republic of Nagorny Karabakh were not able to liberate all the territories occupied by

Azerbaijan, including the entire region of Shahumian, and the eastern parts of the Martuni and Martakert regions.

3. In May 1994, at the meeting in Bishkek the Speakers of the Parliaments of Azerbaijan, Nagorny Karabakh and Armenia signed the final Protocol of the CIS Inter-Parliamentary Summit on the Nagorny Karabakh conflict, which laid the grounds for the subsequent ceasefire agreement. The latter came into force on 12 May and, despite some violations, has been respected to date.

4. In 1992-1994, the negotiations on the peaceful settlement of the Nagorny Karabakh problem were held within the framework of the CSCE. Starting from 1994 the negotiations continued under the mediation of the Co-Chairs of the OSCE Minsk Group. The Budapest summit of CSCE of December 1994 instructed the Minsk Group to conduct negotiations with all the parties to the conflict: Azerbaijan, Nagorny Karabakh and Armenia. The meetings between the Armenian and Azerbaijani Presidents and Foreign Ministers started in the OSCE framework since 1999. During the past 15 years the Co-Chairs have submitted numerous recommendations to the parties.

5. At the beginning of 2001, in Paris, as a result of two-phase meetings the Presidents of Armenia, Azerbaijan and France reached an agreement in principle on the settlement of the conflict, which was documented in Key West (United States). However, later, Azerbaijan refused to follow its commitments.

6. In 2004, a new "Prague Process" was launched between Armenia and Azerbaijan. Currently, the negotiations are based on the "Madrid Recommendations" submitted by the OSCE Minsk Group Co-Chairs to the Ministers for Foreign Affairs of Armenia and Azerbaijan and deposited with the OSCE Secretary General.

7. The Republic of Armenia values the mediation efforts of the OSCE Minsk Group Co-Chairs as a functional format of negotiations that has a sufficient potential to find ways for the settlement of the conflict. Meanwhile, as a result of a propaganda of the authorities of Azerbaijan against the Minsk Group mediation, 82 per cent of the population of Azerbaijan oppose the mediation efforts of the OSCE Minsk Group.

8. In parallel to the OSCE peace process, for years the Republic of Azerbaijan has been making attempts to transfer the issue of the settlement of the Nagorny Karabakh problem to other international frameworks, particularly to the United Nations, where many parties are somewhat less familiar with the nature and origins of the problem. Those efforts by Azerbaijan are solely aimed at dragging the peaceful resolution of the issue. On 14 March 2008, resolution 62/243 on the situation in the occupied territories of Azerbaijan, submitted by the Republic of Azerbaijan, was adopted by the General Assembly by only 39 votes out of 192 members of the United Nations. Around four fifths of the United Nations Members did not support the resolution. The OSCE Minsk Group Co-Chair countries voted against, noting in their joint statement that the resolution contains some principles selectively (the principle of territorial integrity) at the expense of other principles (the right to self-determination, etc). The adoption of this resolution not only hindered the negotiation process of Nagorny Karabakh conflict, but also had destructive consequences, launching a new wave of the years-old militaristic policy of Azerbaijan. Azerbaijan tried to ignore the existing format of the

negotiations and the "Madrid Recommendations" and to impose the General Assembly resolution as a basis for negotiation on the settlement of the Nagorny Karabakh conflict.

9. On 6 June 2008, at their meeting in St. Petersburg, the Presidents of the Republic of Armenia and the Republic of Azerbaijan reached a final agreement to accept the "Madrid Recommendations" as a basis for negotiations. The Presidents instructed their Ministers for Foreign Affairs to proceed with the negotiations on the basis of "Madrid Recommendations" to converge the positions of the parties on pending issues. Nevertheless, after the St. Petersburg meeting and up until the presidential elections in Azerbaijan in October 2008, Azerbaijan on the highest level continued its destructive policy questioning the "Madrid Recommendations".

10. The negotiation process was renewed on 2 November 2008 through the mediation and initiative of the Russian President Medvedev, in his capacity as the President of the OSCE Minsk Group Co-Chair country. The result of the Moscow negotiations was the signing by the Presidents of the Republic of Armenia, the Republic of Azerbaijan and the Russian Federation of the "Declaration on Nagorny Karabakh conflict". This initiative was approved and supported by the OSCE Minsk Group Co-Chairs. The main provisions of the Declaration are: (a) the political and peaceful settlement of the Nagorny Karabakh conflict; (b) the settlement of the Nagorny Karabakh conflict on the basis of the norms and principles of international law; (c) the reconfirmation of the continuity of mediatory efforts of OSCE Minsk Group Co-Chairs; (d) the continuation of the negotiations on the basis of the "Madrid Recommendations"; (e) commitment to supplement the settlement by international guarantees; and (f) creation of conditions for the implementation of confidence-building measures. Signing of the Declaration was a positive step towards the enhancement of the negotiation process. However, Azerbaijan has not only continued its destructive policy, but also tried to misrepresent and misinterpret the provisions of the Declaration, particularly stating that (a) the settlement of the problem does not exclude the use of force by Azerbaijan; and (b) the principle of territorial integrity is the only applicable principle, etc.

11. On 4 December 2008 in Helsinki, the Ministers for Foreign Affairs of the Republic of Armenia and the Republic of Azerbaijan met with the OSCE Minsk Group Co-Chairs on the margins of the OSCE Ministerial Council. The Ministers for Foreign Affairs of the OSCE Minsk Group Co-Chair countries in their statement reiterated their firm position that there can be no military solution to the conflict and called on the parties to recommit to a peaceful resolution. The Ministers also stressed the value of the Moscow Declaration, the continuation of the negotiations with the mediation of the Co-Chairs on the basis of the "Madrid Recommendations". The Ministers also called on the parties to finalize the Basic Principles and begin drafting a comprehensive peace agreement.

12. On 5 December 2008, in Helsinki, the Ministers for Foreign Affairs of 56 OSCE member States adopted a Declaration welcoming a peaceful and political settlement of the Nagorny Karabakh conflict, and efforts to develop confidence-building measures and to consolidate the ceasefire. The Ministers strongly encouraged the parties to intensify efforts in the negotiation process, stressed the significance of the Moscow Declaration, the positive momentum established after the St. Petersburg and Moscow meetings of the Presidents of the Republic of Armenia and the Republic of Azerbaijan, the continuation of the negotiations with

the mediation of the Co-Chairs on the basis of the "Madrid Recommendations". The parties were also encouraged to immediately pull out snipers from the conflict area, to enhance efforts to finalize the Basic Principles and to begin drafting a comprehensive peace agreement.

13. The Armenian side welcomed these statements and believes that through the commitment to the provisions of these statements the parties can achieve progress in the negotiation process. However, the Azerbaijani side once again ignored the appeals of the international community.

14. Presidents Serzh Sargsyan and Ilham Aliyev assessed their Zurich meeting of 29 January 2009 as constructive and instructed the two Ministers for Foreign Affairs to continue the negotiations with the mediation of the Co-Chairs on the basis of the "Madrid Recommendations".

15. However, Azerbaijan has continued its destructive conduct by circulating reports at the General Assembly on 22 and 26 December 2008, namely "Report on the legal consequences of armed aggression by the Republic of Armenia against the Republic of Azerbaijan" and "Report on the fundamental norm of the territorial integrity of States and the right to self-determination in the light of Armenia's revisionist claims", which not only hinder the process of the peaceful settlement, misinterpret the essence of the Nagorny Karabakh problem, but also attempt to legitimize Azerbaijan's intent of possible military aggression against Nagorny Karabakh and the Republic of Armenia. Azerbaijan's hostile statements and threats, as well as frequent violations of the existing ceasefire constitute elements of aggression.

16. In response to Azerbaijan's destructive conduct in the peace negotiations, the Co-Chairs of the OSCE Minsk Group on 19 February 2009 issued a joint statement, in which they stressed that, despite the two reports circulated at the request of the Permanent Representative of Azerbaijan to the United Nations on 22 and 26 December 2008, there is no military solution to the Nagorny Karabakh conflict. They expressed hope that the above-mentioned reports would have no bearing on the negotiations within the Minsk Group in pursuit of a peaceful and political settlement of the Nagorny Karabakh conflict, to which both Presidents committed themselves in their Moscow Declaration of 2 November 2008.

17. Despite the statement of the OSCE Minsk Group Co-Chairs, Azerbaijan continues its efforts to misinterpret the Nagorny Karabakh problem and, on 23 January and 17 February 2009, circulated new reports at the United Nations "Report on the international legal responsibilities of Armenia as the belligerent occupier of Azerbaijani territory" and "Support by States Members of the United Nations and international organizations to Azerbaijan's position on the conflict in and around the Nagorny Karabakh region of Azerbaijan".

18. Neglecting the requirements of the OSCE Helsinki Ministerial Declaration, Azerbaijan made a statement on 5 March 2009 at the 752nd meeting of the OSCE Permanent Council, pointing at the uselessness of the pull-out of the snipers from the Nagorny Karabakh conflict area.

19. Azerbaijan is intensifying its years-old militaristic policy, increasing its military budget tenfold and violating the arms limitation norms stipulated by the international treaties. Azerbaijan's war rhetoric, at the highest level, adds tension to the overall environment. According to the official results of a public opinion poll,

30 per cent of the population of Azerbaijan favours the military solution of the Nagorny Karabakh problem.

20. Armenia adheres to the peaceful settlement of the conflict and values the establishment of the environment of confidence necessary to continue the negotiations in a constructive way. The parties should refrain from any steps which may create additional tension and obstacles on the way to the peaceful settlement.

II. Legal and historical aspects of the Nagorny Karabakh problem

A. Development of the dispute (1918-1920)

21. The dispute over Nagorny Karabakh dates back to the period of the collapse of the Russian Empire after the October 1917 Revolution and the subsequent creation of three States in the South Caucasus: the Republic of Armenia, the Democratic Republic of Azerbaijan and the Republic of Georgia. Following the collapse of the Empire, Nagorny Karabakh (with 95 per cent of Armenian population) refused to subject itself to the authority of the Democratic Republic of Azerbaijan. The Nagorny Karabakh Armenians convened their First Assembly, which proclaimed Karabakh an autonomous entity and elected a National Council and a government.

22. The newly proclaimed Democratic Republic of Azerbaijan resorted to military means to suppress the peaceful resolve of the people of Nagorny Karabakh for self-determination. Between May 1918 and April 1920, Azerbaijani troops, backed by Turkish forces, continued the aggression against and massacres of the Armenian population of Nagorny Karabakh (in March 1920, around 40,000 Armenians were massacred or deported from the town of Shushi). However, that could not force the people of Nagorny Karabakh to submit to the Azerbaijani rule. Meanwhile, the newly independent Republic of Armenia had to mobilize to defend itself against the Turkish invasion, and was unable to protect Nagorny Karabakh or take diplomatic steps towards the resolution of the Nagorny Karabakh problem.

23. From 1918 to 1920, Nagorny Karabakh possessed all necessary attributes of statehood, including army and legitimate authorities. In August 1919, the National Council of Karabakh and the Government of the Democratic Republic of Azerbaijan concluded a Provisional Agreement on Nagorny Karabakh to avoid military conflict. Both sides agreed that the issue must be considered at the Paris Peace Conference. Thus, entering into agreement with the Karabakh National Council, Azerbaijan confirmed the status of Nagorny Karabakh as an independent legal entity. The Provisional Agreement was violated by the Azerbaijani side after the sovietization of Azerbaijan.

24. It was not until April 1920 that the Republic of Armenia could come to the rescue of the devastated population of Karabakh. On 23 April 1920, the Ninth Assembly of the Karabakh Armenians declared Nagorny Karabakh as an inalienable part of the Republic of Armenia.

25. In 1920, Nagorny Karabakh was recognized by Soviet Russia as a disputed territory between Soviet Azerbaijan and the Republic of Armenia. The Agreement signed on 10 August 1920 between Soviet Russia and the Republic of Armenia stated that the regions of Karabakh, Zangezour and Nakhichevan should be occupied by Soviet troops, but that would not predetermine the final possession of these

regions. The solution of the issue was subject to determination by a Pact to be signed between Armenia and Soviet Russia.

B. International response to the illegal claims of Azerbaijan

26. The international community, namely the League of Nations, recognized the disputed status of Nagorny Karabakh. The League of Nations rejected Azerbaijan's accession application on the grounds that it was unable to determine the borders of the state and its sovereignty over a territory. One of the disputable issues was the status of Nagorny Karabakh, within larger borders than its present ones.[1] (Memorandum of the Secretary General, the League of Nations, November 1920, reference no. 20/48/108). The League of Nations revisited the issue of Nagorny Karabakh in 1919-1920, at the Paris Peace Conference, when it committed itself to finding a solution to the problem, but the establishment of Soviet rule in the region left the issue out of international forums.

C. Nagorny Karabakh under Soviet rule (1921-1988)

Annexation of Nagorny Karabakh to Azerbaijan

27. On 30 November 1920, the Soviet Government of Azerbaijan adopted a Declaration on recognition of Nagorny Karabakh as an integral part of Soviet Armenia as a welcome act towards the victory of Soviet forces in the country.

28. On 21 June 1921, the Government of Soviet Armenia, based on Azerbaijan's Declaration and the agreement with the Azerbaijani Government, issued a Decree recognizing Nagorny Karabakh as an integral part of Soviet Armenia.

29. These documents were registered in the League of Nations resolution of 18 December 1920, and in the 1920/21 annual report of the Ministry of Foreign Affairs of Russia, respectively.

30. Neglecting the reality, on 5 July the Caucasian Bureau of the Communist Party, acting under Joseph Stalin's personal pressure, revised its own decision of the previous day and resolved to subject Karabakh to Azerbaijani rule and to create an autonomous province (oblast) of Nagorny Karabakh, within the territory of Soviet Azerbaijan. This decision cannot serve as a legal basis for the determination of the status and the borders of the Nagorny Karabakh: it was adopted by a third-country party, i.e. the Russian Bolshevik Party, with no legal power or jurisdiction; at the time of the decision, both Armenia and Azerbaijan were independent, albeit Soviet, States; the governments of the two States had not reached an agreement on status and borders; the decision was not based on a legal or historic reasoning, it was dictated by the will of an individual.

31. In December 1922, Soviet Armenia and Soviet Azerbaijan acceded to the Soviet Union and the Autonomous region of Nagorny Karabakh was established

[1] On 1 December 1920, the Fifth Committee of the Assembly of the League of Nations arrived at the conclusion that: Azerbaijan could not be regarded de jure a "full self-governing state", as it had not been recognized de jure by any member of the League of Nations. Moreover, the territory claimed by Azerbaijan "occupying a superficial area of 40,000 square miles appears to have never formerly constituted a State, but always been included in larger groups such as the Mongol or Persian and since 1813, the Russian Empire".

within the Azerbaijani SSR, thus freezing the solution of the Karabakh problem. This region comprised only parts of Nagorny Karabakh proper.

Human rights violations in Nagorny Karabakh under Soviet rule

32. Throughout its rule over Nagorny Karabakh, the authorities of the Azerbaijani SSR systematically violated the rights and freedoms of the Armenians of Karabakh. The Azerbaijani authorities deliberately hampered the social and economic development of Karabakh, turning it into a source of raw materials.[2] The Azerbaijani SSR pursued a policy of the eviction of the Armenian population from Karabakh, and destruction and appropriation of Armenian cultural and historic monuments.

33. Azerbaijan's discrimination towards Nagorny Karabakh had its impact on the welfare of its Armenian population and became a major migration factor. As a result, the Armenian population declined: while in 1923 Armenians constituted 94.4 per cent of the entire population of Nagorny Karabakh, in 1989, their numbers dropped down to 76.9 per cent. Meanwhile, the Azerbaijani population of Nagorny Karabakh increased several times as its growth was predominantly sustained by the influx from Azerbaijan: in 1923 Azerbaijanis constituted 3 per cent of the population of the area, while, by 1989, their number increased up to 21,5 per cent.

Appeals to revise the annexation of Nagorny Karabakh

34. The population and the authorities of the Autonomous Region of Nagorny Karabakh and the authorities of the Armenian SSR made numerous appeals to the Soviet authorities to revise the decision of the transfer of Nagorny Karabakh to the Azerbaijani SSR. All these demands were either ignored or rejected and their initiators severely persecuted. Some of those requests were: the 1945 appeal of the Communist party and the Government of the Armenian SSR to the Soviet Government and the Union Communist Party; in 1963 and in 1965, the Nagorny Karabakh population sent, respectively, 2,500 and 45,000 letters to the Soviet authorities; during the discussion of the draft Soviet Constitution in 1977, individuals and enterprises of the Autonomous Region of Nagorny Karabakh proposed numerous amendments.

D. Nagorny Karabakh in 1988-1991

35. The launch of *Perestroika* raised the hopes of Nagorny Karabakh Armenians for a fair and democratic solution of their issue. At the end of 1987, thousands of Karabakh Armenians initiated peaceful marches and demonstrations and the authorities of the Autonomous Region of Nagorny Karabakh submitted appeals and petitions to the Communist party of the USSR and State leadership. More than 80,000 people signed the public petition requesting reunification with the Armenian SSR.

36. On 20 February 1988, the special session of the People's Delegates of Nagorny Karabakh adopted a decision to "appeal to the Supreme Councils of the Azerbaijani and Armenian Soviet Socialist Republics to transfer Nagorny Karabakh from the

[2] "The people's economy of the Azerbaijan SSR" confirms that in 1981-1985 the per capita investments in Nagorny Karabakh half the average in Azerbaijan, and in 1986, this number reached 2.7.

Azerbaijani SSR to the Armenian SSR". This decision was preceded by similar ones from the local and district Councils.

37. The Soviet leadership attempted to shift the Nagorny Karabakh problem from the political into the social and economic domain. Meanwhile, the Azerbaijani authorities, used the ambivalent stance of the Soviet leadership to launch a ferocious media campaign in order to shift the whole problem into the inter-ethnic domain and in 1988-1990, instead of finding a peaceful solution to the issue, provoked violence, massacres and forced deportations (Sumgait massacres of February 1988; the Armenian pogroms throughout Azerbaijan, particularly in Baku, Kirovabad, Shemakh, Shamkhor, Mingechaur, in the Nakhichevan ASSR in November-December 1988; the major massacre of Baku in January 1990; the forced deportation of 24 Armenian villages in 1990 as a result of the "Operation Ring" — 2 in the Khanlar region of Azerbaijan, 3 in the Shahumian district, 15 in the Hadrout region and 4 in the Shushi region; and the Maragha massacre of April 1992.

38. In April-May 1991, the joint efforts of the Soviet and Azerbaijani authorities to deport the Armenian population of the Autonomous Region of Nagorny Karabakh and the surrounding regions culminated in the operation *Koltso* (Ring) carried out by the Soviet military structures, which stimulated the creation of the Karabakh self-defence army to resist the Azerbaijani offensive. In addition to the military offensive, the Azerbaijani SSR resorted to economic coercive measures and cut all commodity supplies, which were mainly delivered to the Armenian SSR and the Autonomous Region of Nagorny Karabakh through the Azerbaijani SSR. The result was the total isolation of Karabakh.

Creation of the Republic of Nagorny Karabakh

39. On 29 August 1991, the Azerbaijani SSR declared the restoration of the independence of the "Azerbaijani Democratic Republic of 1918-1921". On 23 November 1991, the Republic of Azerbaijan, unilaterally and without the consent of the population of Nagorny Karabakh, adopted a law on "Abolition of the Nagorny Karabakh Autonomous oblast", which also envisaged the renaming of certain Armenian cities.

40. In 1991, Nagorny Karabakh initiated the process of gaining independence in compliance with the USSR domestic legislation. Based on the USSR Constitution and the Soviet Law on "The procedures of the resolution of problems on the secession of a union republic from the USSR" of 3 April 1990, which stipulated that in case of a secession of a Soviet republic from the Union, people of autonomous republics, autonomous entities and national groups which densely populate particular areas are entitled to decide on their own whether to stay within the USSR or the seceding Union Republic, on 2 September 1991 the joint session of Nagorny Karabakh regional and Shahumian District Councils of People's Delegates adopted a declaration proclaiming creation of the Nagorny Karabakh Republic.

41. On 10 December 1991, Nagorny Karabakh held a referendum monitored by international observers and media representatives,[3] which confirmed Karabakh's independence: 108,736 of the registered 132,328 voters (82.2 per cent) cast ballots,

[3] The observers were the representatives of the former Union Republics, deputies of the Supreme Soviets of the USSR, Russian Soviet Federative Socialist Republic, Mossoviet and representatives of various international organizations and foreign States.

of which 108,615 (99.89 per cent) voted in favour. 17.8 per cent of the registered voters, mostly of Azerbaijani origin, did not participate. As a result Nagorny Karabakh was the only autonomy which gained independence before the collapse of the USSR according to the existing domestic legislation and the norms of international law.

42. On 6 January 1992, the newly elected Parliament of Nagorny Karabakh, based on the right of its people's for self-determination and the will of the people expressed through the referendum, adopted the "Declaration of Independence of the Republic of Nagorny Karabakh". The Parliament also appealed to the United Nations and the international community to recognize the Republic and to help prevent the extermination of the local Armenian population.

43. Following the collapse of the USSR, on the territory of the former Azerbaijani SSR two States were formed: the Republic of Azerbaijan and the Republic of Nagorny Karabakh. The establishment of both States has similar legal basis; and therefore the establishment of the Republic of Nagorny Karabakh on the basis of its peoples' right to self-determination should not be considered in the scope of territorial integrity of the Republic of Azerbaijan. This was also confirmed by the resolution of the European Parliament "On the support for the peace process in the Caucasus" of 21 June 1999, which recognizes the fact that Nagorny Karabakh declared its independence following similar declarations by former Soviet Republics.

44. In 1991, restoring its independence as a successor of the Republic of Azerbaijan of 1918-1920 and rejecting its Soviet legal heritage of 1920-1991, the Azerbaijani SSR lost all claims to the territories transferred to Soviet Azerbaijan in July 1921, including Nagorny Karabakh. Thus, the Republic of Nagorny Karabakh was formed on territories over which the Republic of Azerbaijan had no sovereignty.

III. Attributes of the independent State of the Republic of Nagorny Karabakh

45. Nagorny Karabakh gained its independence according to the domestic and international legal norms. In parallel to this legal process, Nagorny Karabakh successfully established all structures and attributes for the formation of an independent State:

Defined territory: Nagorny Karabakh exercises sovereign jurisdiction on a defined territory with its borders and is capable of providing security and normal living conditions to its citizens.

Permanent population: the vast majority of the people of Nagorny Karabakh constitute a homogenous group with historical ties to its territory.

Permanent administration exercising exclusive jurisdiction on a defined territory and people: Nagorny Karabakh is a Republic with presidential governing system. The National Assembly is the highest legislative body of the Republic. Since 1991 the National Assembly has adopted a series of laws necessary for the foundation of the country's political structures, executive and judicial authorities. The Government comprises the Prime Minister and 12 Ministries. Since 1998, after the adoption of the corresponding law local governance has also been operational in Nagorny Karabakh. In 2006 the Constitution of the Republic was adopted via

referendum. Regular presidential, parliamentary and local elections have been held since December 1991.[4] The most recent presidential elections were held in Nagorny Karabakh in 2007 and Bako Sahakyan was elected the new President of the Republic.

Government engaged in discussions with foreign States: On 20 September 1992, the Parliament of Nagorny Karabakh petitioned the United Nations, the Commonwealth of Independent States, and individual countries for recognition. A series of documents on Nagorny Karabakh problem adopted by various international organizations, as well as numerous mediation efforts of individual States, clearly demonstrate that Nagorny Karabakh has always been a prominent factor in the peace negotiations, a regional factor and an independent entity, which is proved by a number of signatures of officials of Nagorny Karabakh on various documents. These documents include the Zheleznovodsk Communiqué of 23 September 1991, issued after official talks held in Zheleznovodsk, Russia, at the initiative of the Russian and Kazakh Presidents; the Sochi Agreement of 19 September 1992, signed by the defence authorities of Azerbaijan, Nagorny Karabakh and Armenia, which calls for cessation of all military activities for two months; a military-technical protocol on the implementation of the Sochi Agreement signed on 25 September 1992, in Moscow; the Timetable of Urgent Steps proposed by the Chairman of the CSCE Minsk Group of September 1993, in which Nagorny Karabakh appears as a side to the conflict for the first time; the Bishkek Protocol of May 1994, signed at negotiations of the Speakers of Parliaments of Armenia, Azerbaijan and Nagorny Karabakh; and the Agreement on ceasefire, mediated by the Russian Federation on 12 May 1994, and signed by the Ministers of Defence of Armenia and Azerbaijan and the Commander of the Nagorny Karabakh armed forces. Besides, starting from 1992, the authorities of Azerbaijan held regular direct contacts with the authorities of Nagorny Karabakh: 15 September 1992, contacts between the representatives of Azerbaijan and Nagorny Karabakh in Moscow; 28 July 1993, meeting of governmental delegations of Nagorny Karabakh Republic and Azerbaijan, headed by the Chairman of the Nagorny Karabakh Republic Self-Defence Committee Serzh Sargsyan and Azerbaijani Acting Defence Minister Safar Abiyev at the Martakert contact line. Foreign Minister of the Nagorny Karabakh Republic Ghoukasian, Head of National Security Department of the Nagorny Karabakh Republic Abrahamian, Deputy Minister of Internal Affairs of the Nagorny Karabakh Republic Aghassian and State Minister of Azerbaijan Aliev, representative of Foreign Ministry of Azerbaijan Zoulfougarov and Chairman of the Commission on exchange of hostages of Azerbaijan Kiazimov were also in the delegations of the parties. As a result, the parties signed an Agreement on prolongation of the previous agreement on refraining from any military activities; negotiations between the Deputy Chairman of the Supreme Council of the Azerbaijani Republic A. Jalilov and Foreign Minister of the Republic of Nagorny Karabakh A. Ghoukasian held on 12 and 13 September 1993, in Moscow where a joint communiqué was adopted; the meeting between the Vice Prime Ministers of Nagorny Karabakh and Azerbaijan (Zh. Poghosian and A. Abbasov) held on 25 September 1993 on the Aghdam contact line; meeting of the leaders of Azerbaijan and Nagorny Karabakh held on

[4] The elections were observed by international observers (British Helsinki Human Rights Group, Centre for the Comparative Study of Elections, Moscow Academy of Sciences for National Security Issues, Moscow Foundation for Social, Economic and Intellectual Programs).

25 September 1993 in Moscow; regular communications were held between Baku and Stepanakert at the level of military and political leaders in summer and fall 1993.

In 1993-1994, a series of trilateral negotiations under Russian mediation took place in Moscow between the political top leadership and representatives of Defence Ministries of the Republic of Azerbaijan, the Republic of Nagorny Karabakh and the Republic of Armenia. As a result, several agreements were reached on reciprocal cessation of artillery bombardments and offensive military operations, prolongation of the ceasefire regime, mutual release of the detained women and children, and other issues. The active involvement of Nagorny Karabakh in the process of negotiations within the CSCE framework is witnessed by the First Additional meeting of the CSCE Council held in Helsinki on 24 March 1992, which decided to convene a conference on Nagorny Karabakh and invited the legitimate authorities of Nagorny Karabakh to the Conference as an interested party; the 1994 CSCE Budapest Summit, where the participating States welcomed the affirmation of the ceasefire agreement reached on 12 May 1994, by the parties to the conflict (Azerbaijan, Nagorny Karabakh and Armenia) and announced their readiness to deploy multinational CSCE peacekeeping force, and reached an agreement on the creation of the High-level Planning Group of the OSCE; the 31 March 1995 statement of the OSCE Chairman-in-Office, which confirmed the previous OSCE decisions on the status of the parties to the conflict, and provided for the participation of the two member States involved in the conflict and Nagorny Karabakh as a third party to the conflict, as well as the Minsk Conference in the whole process of negotiations.

In addition, the OSCE Minsk Group Co-Chairs during their regional trips travel to Nagorny Karabakh and meet with the Karabakh authorities.

However, throughout the OSCE mediation process the Republic of Azerbaijan has refused to include the representatives of Nagorny Karabakh in the negotiation process despite the fact that the previous rounds of formal negotiations in the mid-1990s were conducted with the participation of representatives of Nagorny Karabakh. Azerbaijan concerned that the participation of Nagorny Karabakh in the talks might imply some degree of a de facto status for Nagorny Karabakh. Azerbaijan's such stance on the issue reveals its real objectives: (a) provide no support to the process of negotiations as long as possible, hoping that the revenues from the Caspian oil would help to pressure on Armenia and achieve a settlement in their favour; (b) falsify the nature of the conflict, to present it as a territorial dispute between Armenia and Azerbaijan with all relevant consequences; (c) obscure Azerbaijan's responsibility for transforming the process of self-determination of Nagorny Karabakh into a military conflict and the resulting de facto situation; and (d) act as a victim in need of international assistance.

Representative offices of Nagorny Karabakh in the United States of America, France, Russia, Lebanon, Germany, Australia and Armenia also show an active international involvement of the Republic of Nagorny Karabakh.

IV. International response to the blockade imposed on Armenia and Nagorny Karabakh

46. The international community, through the respective resolutions of international organizations, severely criticized the Azerbaijani blockade of the Republic of Armenia and Nagorny Karabakh, describing it as a violation of human rights, particularly in the European Parliament resolutions of 18 June 1987, 18 January 1990, and 21 January and 27 May 1993, the Council of Europe Parliamentary Assembly motion for recommendation on the situation in Nagorny Karabakh/Atkinson motion, submitted on 22 September 1992 by 30 members, etc.

The United States Congress has been actively engaged in promoting the resolution to the conflict. The Congress has focused its attention on Nagorny Karabakh primarily through foreign operations appropriations legislation: the allocation of funding to promote resolution of the Nagorny Karabakh conflict and provide incentives to the parties to the conflict to reach such a resolution; the provision of humanitarian assistance to the people of Nagorny Karabakh; the viability of restrictions on direct aid to the Republic of Azerbaijan put in place in response to Azerbaijan's blockade of the Republic of Armenia and the Republic of Nagorny Karabakh.

The international community must clearly and unambiguously react to the militaristic policy of Azerbaijan. Urgent steps must be taken to address the dangerous and volatile situation in the South Caucasus region, to prevent any possible military actions that are still at the planning stage and to ensure that Azerbaijan adheres to its international obligations.

United Nations A/63/783–S/2009/157

General Assembly
Security Council

Distr.: General
25 March 2009

Original: English

General Assembly
Sixty-third session
Agenda item 16
Question of Palestine

Security Council
Sixty-fourth year

Identical letters dated 25 March 2009 from the Permanent Observer of Palestine to the United Nations addressed to the Secretary-General and the President of the Security Council

I write to you with regard to the shocking assassination of a Palestinian official in Lebanon on 23 March 2009, a dangerous development with potentially far-reaching, destabilizing consequences.

The Palestinian people and their leadership mourn the loss of General Kamal Naji (known as Kamal Midhat), Deputy Representative of the Palestine Liberation Organization (PLO) in Lebanon and a prominent Palestinian leader, who was assassinated in a deliberate, violent attack that claimed his life and that of three other PLO officials accompanying him and seriously injured several other people. Mr. Naji's convoy was leaving a Palestinian refugee camp, Miyeh Miyeh, close to the city of Sidon in Lebanon when a roadside bomb was detonated between the Palestinian and Lebanese checkpoints outside the camp entrance. The powerful explosion decimated Naji's car, throwing its charred remains metres away from the site of the attack.

We condemn this terrorist attack in the strongest terms and we note with grave concern the striking similarity between the explosion in this assassination and other such attacks in which Lebanese officials were assassinated in the past. We bring this matter to your attention at this time because the incendiary and destabilizing impact of such a criminal, deliberate attack clearly cannot be underestimated and must be seriously addressed. In this regard, the Palestinian leadership strongly believes that the main target of such a malicious act is stability in Lebanon and within the Palestinian refugee camps throughout the country as well as the strengthened, cooperative Palestinian-Lebanese relations. In this context, we assure the international community that we will do our utmost to prevent this crime from negatively affecting Palestinian-Lebanese relations as well as intra-Palestinian relations within the refugee camps in Lebanon.

An important first step in addressing this latest assassination is the formal investigation that has been undertaken by the Lebanese authorities. The Palestinian leadership has full confidence that this investigation will be thorough and

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professional, leading to the indictment and punishment of the perpetrators of this most serious crime. In this regard, we urge all concerned parties in the international community to extend their full cooperation to the investigation in order to ensure that security and stability in Lebanon is preserved and that those wishing to sabotage Lebanon's security and stability are stopped swiftly and clearly receive the message that such criminal acts of brutality will not be tolerated.

I would be grateful if you would arrange to have the text of the present letter distributed as a document of the General Assembly, under agenda item 16, as well as of the Security Council.

(*Signed*) Dr. Riyad **Mansour**
Ambassador
Permanent Observer